



Chicago, Milwaukee, St. Paul and Pacific Railroad Company

516 West Jackson Boulevard
Chicago, Illinois 60606
Phone 312/648-3000

RECORDATION NO. 13908 FORM 1425

JAN 14 1983 11 48 AM

INTERSTATE COMMERCE COMMISSION

No. 3-8141077
Date JAN 14 1983
Fee \$ 50.00

RECEIVED
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FEE OPERATION BR.

ICC Washington, D. C.

January 12, 1983

Secretary
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

I have enclosed three executed originals of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code, Part 1116.

The document is a lease of railroad equipment, a primary document, dated as of September 15, 1982.

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

- Lessor: Portec Lease Corp.
300 Windsor Drive
Oak Brook, Illinois 60521
- Lessee: Richard B. Ogilvie, Trustee of the Property of the
Chicago, Milwaukee, St. Paul and Pacific Railroad
Company, Debtor
516 West Jackson Boulevard
Chicago, Illinois 60606

A description of the equipment covered by the lease is as follows:

210 units, 100-ton, 4,000 cubic foot capacity, open-top
hopper cars bearing marks MILW 120000 through MILW 120209,
both inclusive.

A fee of \$50 is enclosed. Please return any extra copies not needed by the Commission for recordation to the undersigned at 888 Union Station Building, 516 West Jackson Boulevard, Chicago, Illinois 60606.

A short summary of the lease to appear in the index follows:

Lease of railroad equipment between Portec Lease Corp., 300 Windsor Drive, Oak Brook, Illinois 60521 as Lessor, and Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific

Counterpart - J. P. R. L.

Railroad Company, Debtor, 516 West Jackson Boulevard, Chicago, Illinois 60606, as lessee, dated as of September 15, 1982 and covering 210 units, 100-ton, 4,000 cubic foot capacity, open-top hopper cars bearing marks MILW 120000 through MILW 120209, both inclusive.

Very truly yours

A handwritten signature in cursive script that reads "M D Sullivan".

Michael D. Sullivan
General Solicitor-Corporate

MDS:je
Encls.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

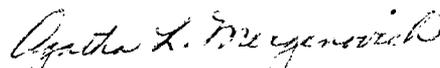
Michael D. Sullivan
888 Union Station Building
516 West Jackson Boulevard
Chicago, Illinois 60606

January 14, 1983

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 1/14/83 at 11:55AM, and assigned re-
recording number(s). 13908

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

13908
RECORDATION NO. _____ FILED 1429

JAN 14 1983 · 11 52 AM

INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

Dated as of September 15, 1982

between

PORTEC LEASE CORP.

as Lessor

and

**Richard B. Ogilvie, Trustee
of the Property of the Chicago,
Milwaukee, St. Paul and Pacific
Railroad Company, Debtor**

as Lessee

LEASE OF RAILROAD EQUIPMENT

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THIS LEASE OF RAILROAD EQUIPMENT, dated as of September 15, 1982, is between PORTEC LEASE CORP., a Delaware Corporation ("Lessor"), and Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, as lessee (said Richard B. Ogilvie, Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, together with any additional successor Trustee or Trustees of such property, and upon assignment, transfer or succession to the interest therein by the reorganized debtor pursuant to Section 77 of the Federal Bankruptcy Act, such reorganized company and its successors and assigns, being hereinafter referred to as the "Lessee", and Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor in its individual corporate capacity being hereinafter sometimes referred to as "Milwaukee Road");

WHEREAS, pursuant to purchase order No. 115 placed with PORTEC, Inc. ("Builder") by Lessor and accepted by Builder, Builder has agreed to manufacture, sell and deliver to Lessor the units of railroad equipment described in Schedule A hereto (the "Equipment"), such purchase order, as so accepted and as the same may be hereafter amended, modified or supplemented, being herein sometimes called the "Purchase Order"; and

WHEREAS, Lessee desires to lease such number of units of Equipment ("Units"), subject to delivery and acceptance thereof as provided in this Lease, at the rentals and upon the terms and conditions hereinafter provided;

WHEREAS, on December 19, 1977, Milwaukee Road filed a Petition for Reorganization under Section 77 of the Federal Bankruptcy Act in the United States District Court for the Northern District of Illinois, Eastern Division (the "Court"), such Petition was duly approved and was properly filed by an order signed December 20, 1977, by the Court (said Petition and any and all other proceedings with respect thereto filed with the Court being hereinafter called the "Reorganization Proceedings") and the Lessee was duly qualified as a successor Trustee of the property of Milwaukee Road on August 20, 1979;

WHEREAS, pursuant to Order No. 612 of the Court entered on September 13, 1982 this Lease was approved and the obligations of Lessee thereunder were deemed to constitute a cost of administration entitled to priority in the Reorganization Proceedings;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by Lessee, Lessor hereby leases the Units to Lessee upon the following terms and conditions:

§1. Net Lease. Except as expressly provided herein, this Lease is a net lease and Lessee shall not be entitled to any abatement of any Rent (except as provided by §17(c) hereof), as

hereinafter defined, due hereunder, or setoff against or recoupment or reduction of such Rent including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of Lessee against Lessor under this Lease or otherwise or against any assignee of Lessor or against Builder. Except as expressly provided herein, Lessee's obligations hereunder, including its obligations to pay all Rent, additional rentals and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and this Lease shall not terminate, nor shall the respective obligations of Lessor or Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the interference with such use by any person, the invalidity or unenforceability or lack of due authorization of this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Rents and other amounts payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated and/or abated pursuant to the express provisions of this Lease. Each Rent or other payment made by Lessee hereunder shall be final and Lessee shall not seek to recover all or any part of such payment from Lessor for any reason whatsoever except, with regard to actual over payments of Rent by Lessee for Units for which Rent abatement is applicable under §17(c).

§2. Delivery and Acceptance of Units.

(a) Subject to receipt thereof from Builder pursuant to the Purchase Order, Lessor will cause each Unit to be delivered to Lessee at the place of delivery specified in Schedule A hereto ("Delivery Point"), provided, however, that no Unit shall be shipped to the Delivery Point prior to December 27, 1982 or after April 30, 1983 and Units not shipped prior to May 1, 1983, shall be excluded from this Lease. Lessor shall advise Lessee at least twenty four (24) hours before the Units are shipped from Builder's plant or place of storage to the Delivery Point. When said Units are accepted on Lessee's rail lines at the Delivery Point, they shall be deemed (i) delivered to and accepted by Lessee, (ii) to appear to be in good order and condition, and (iii) subject to all the terms and conditions of this Lease. Lessee shall promptly after such acceptance, execute and deliver to Lessor a certificate of acceptance ("Certificate of Acceptance") substantially in the form annexed hereto as Schedule B confirming such acceptance.

(b) Lessee's acceptance of a Unit pursuant to §2(a) shall conclusively establish, between Lessor and Lessee (but without prejudice to any rights either may have against Builder), that the

Unit is acceptable to and accepted by Lessee under this Lease, and that such Unit appears to be in good order and condition.

§3. Rent.

(a) The Lessee agrees to pay to the Lessor the following rents and fees (herein collectively referred to as "Rent" or "Rents") for each Unit:

(i) Interim Rent. For each Unit, an amount per day (the "Interim Rent") equal to \$10.95 for the period (the "Interim Period"), from and including the date the Unit is accepted by Lessee under §2 hereof ("Delivered and Accepted"), to and including the earlier of (A) the last day of the calendar month in which the last Unit is Delivered and Accepted, and (B) April 30, 1983;

(ii) Basic Rent. For the period (the "Term Lease Period") commencing on the first day of the calendar month immediately following the Interim Period (the "Term Lease Commencement Date") and continuing for the term of the Lease as determined under §4 hereof, for each Unit, an amount per month of \$290.00 (the "Basic Rent") commencing with the fourth calendar month of the Term Lease Period.

(iii) Maintenance and Repair Fee. For the Term Lease Period, for each Unit an amount per month of \$43.00, as adjusted in accordance with this clause (iii) ("Repair Fee") commencing with the fourth calendar month of the Term Lease Period. Effective on the date corresponding with the Term Lease Commencement Date, in each year of the Term Lease Period commencing with the second year of the Term Lease Period (the "Adjustment Date") the Repair Fee will be increased or decreased, as the case may be, by an amount equal to (x), the percentage of increase or decrease, as the case may be, determined as of the Adjustment Date, in the figure shown for "Material, prices and wage rates combined (excluding fuel)" as it then appears in the most recent issue of the document entitled Series RCR -3 AAR Railroad Cost Recovery Index for the United States of America, above or below, as the case may be, such figure shown in said document at the immediately preceding Adjustment Date (in the case of the first Adjustment Date, the Term Lease Commencement Date will be used as the prior Adjustment Date) multiplied by (y), the Repair Fee in effect immediately prior to the Adjustment Date, provided that in no event shall the Repair Fee for a Unit be less than \$43.00 per month, and

(iv) Mileage Fee. In the event a Unit travels in excess of 20,000 miles in any twelve month period during the Term Lease Period commencing with each anniversary date corresponding with the Term Lease Commencement Date, Lessee will pay Lessor a fee (the "Mileage Fee") equal to (x), two cents (\$.02), multiplied by (y), the number of miles traveled in excess of 20,000 during the twelve month period in question.

(b) The installments of Interim Rent for each Unit shall be due and payable by Lessee on the last day of the third month following the month for which payment is due. (For example, the Interim Rent for December 1982 for a Unit Delivered and Accepted in December 1982 would be payable March 31, 1983.) The term "Rent Payment Date" means a date on which any payment of Basic Rent and/or Repair Fee is due. The first Rental Payment Date for the Basic Rent and Repair Fee payments shall be the last day of the calendar month for which such Basic Rent and Repair Fee are due. (For example, assume the Term Lease Commencement Date is April 1, 1983, the first Rental Payment Date would be July 31, 1983, and the Basic Rent and Repair Fee payable on that date would be for the month of July 1983.) Any Mileage Fee due Lessor from Lessee shall be payable within ninety days following the end of the twelve month period for which it is due.

(c) Lessee also agrees to pay to Lessor, or to whomsoever shall be entitled thereto, any and all Supplemental Rent (as hereinafter defined) promptly as the same shall become due and owing. In the event of any failure on the part of Lessee to pay any Supplemental Rent when due, Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of Basic Rent. Lessee also will pay to Lessor, upon demand, as Supplemental Rent, to the extent permitted by law, interest at the rate of 18.0% per annum (computed on a 360 day year of twelve 30-day months) on any Rent, and any payment of Casualty Value, not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Rent not paid within 10 days after such demand by Lessor for the period from the date of such demand until the same shall be paid. The term "Supplemental Rent" herein means all amounts, liabilities and obligations which Lessee assumes or agrees to pay hereunder to Lessor or others, including, but without limitation, Casualty Value payments but excluding Interim Rent, Basic Rent, Repair Fees and Mileage Fees.

(d) All Rent and Supplemental Rent payments to be made to Lessor hereunder shall be made at such place within the United States of America as Lessor shall specify in writing, but in the absence of such specification shall be made at Lessor's office at 300 Windsor Drive, Oak Brook, Illinois 60521. If Lessor specifies in writing as a place for payment of Rent and Supplemental Rent the office of a bank that can handle a bank wire transfer of funds, Lessee agrees to make each such payment to Lessor in Federal or

other funds immediately available to Lessor by 11:00 a.m., local time at the place of payment, on the date such payment is due.

(e) If any Rent Payment Date is not a business day, the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, are authorized or obligated to remain closed.

§4. Term of Lease. The term of this Lease as to each Unit shall begin on the date it is Delivered and Accepted and, subject to the provisions of this §4 and §7, §10, §13, and §17, shall terminate as to all such Units upon the earlier of (a) 63 months from and including the Term Lease Commencement Date provided for in §3 hereof (for example, if the Term Lease Commencement Date is April 1, 1983, the term of the Lease would terminate June 30, 1988), or (b) in the event the Court orders the termination of this Lease as to all Units then leased hereunder in connection either with the discontinuance of substantially all service or the liquidation of substantially all the assets of the Milwaukee Road, (the "Early Termination Order"), the date of return (the "Early Termination Date") of such Unit by the Lessee in the manner contemplated by §14 hereof. Upon such return of a Unit to Lessor pursuant to §14, the obligation of the Lessee to pay Rents in respect of such Unit accruing subsequent to the Early Termination Date shall terminate and the Lessor shall have no claim against the Lessee or the estate of the Milwaukee Road for such unaccrued Rents; provided that the Lessee shall thereafter continue to be liable in respect of any obligation which accrued hereunder prior to such termination until payment or performance of such obligation in full and the Lessee shall in any event remain liable for each of its obligations under §14 hereof for the period provided therein; and provided further that no Reorganized Company (as defined in §10 hereof) which at any time may become the successor lessee hereunder may exercise any right to terminate this Lease pursuant to clause (b) above.

§5. Identification Marks. Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule A hereto, 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 "Leased from Portec Lease Corp., as Lessor, and subject to a Security Interest recorded with the Interstate Commerce Commission." Lessee, at Lessor's expense and direction, shall make such changes in such markings as from time to time may be required by law or which, in the opinion of Lessor, are necessary in order to protect the Lessor's title to and interest in each Unit and the rights of Lessor under this Lease. Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which

may be removed, defaced, obliterated or destroyed. Lessee will not change the identification number of any Unit unless and until

(i) a statement of new number or numbers to be substituted therefor shall have been filed with Lessor and duly filed and deposited by Lessee in all public offices where this Lease shall have been filed and deposited, and

(ii) Lessee shall have furnished Lessor an opinion of counsel to the effect that such statement has been so filed and deposited, that such filing and deposit will protect Lessor's rights in such Units and that no other filing, deposit or giving of notice with or to any Federal, state or local government or agency thereof is necessary to protect the rights of Lessor in such Units.

Except as provided in the immediately preceding paragraph, Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by Lessee or its permitted assigns or successors or their affiliates. Following the return of the Units to Lessor following termination of this Lease, Lessor shall cause the Lessee's identification numbers to be removed from the Units, at Lessor's expense, before further operation and use of such Units.

§6. Taxes. Except as provided in §17(b) hereof, Lessee assumes responsibility for, and agrees to pay, hold harmless and indemnify on an aftertax basis Lessor and its successors and assigns (hereinafter in this §6 referred to as the "Indemnified Persons") against all taxes, fees, withholdings, levies, imposts, duties, license and registration fees and other governmental charges of any nature whatsoever, including without limitation, penalties, additions to tax and interest (all such taxes, fees, withholdings, levies, imposts, duties, license and registration fees, other governmental charges, penalties, additions to tax and interest being hereinafter called "Taxes"), imposed on, incurred by or asserted against any Indemnified Person or the Units or any thereof on account of, or with respect to, this Lease or any of the transactions contemplated hereby (except those that are Lessor's responsibility under §17(b) hereof) or the acceptance of the Units or any thereof, or the leasing, re-leasing, subleasing, possession, use, operation, maintenance, repair, sale, return or other application or disposition of the Units or any thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however that, except to the extent that indemnification is provided for in §16 hereof, there shall be no indemnification for (i) any Taxes imposed on or measured by the net income, capital gain, net worth, capital stock or excess profits of the Lessor, or franchise taxes to the extent measured by gross receipts or net income based

on gross receipts of the Lessor, or gross receipts taxes other than gross receipts taxes in the nature of sale and use taxes; (ii) any Taxes imposed as a result of a transfer or other disposition of the Lessor's interest in any Unit (or part thereof), this Lease or the rentals or other sums payable to the Lessor hereunder; or (iii) any Taxes imposed on or measured by any fees or compensation received by Lessor hereunder. Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this §6 within 10 days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with §16(e) hereof, any payment shall be made at the time therein provided.

In the event any returns, statements or reports with respect to Taxes are required to be made, Lessee will make such returns, statements and reports in such manner as to show the interest of Lessor in the Units; provided, however, that Lessee shall not be obligated to prepare or file returns, statements, and reports of Lessor relating to any of the Taxes excluded from the scope of Lessee's indemnification obligation pursuant to the proviso to the first sentence of the first paragraph of this §6. To the extent that Lessor has information necessary to the preparation of such returns, statements and reports to be made by Lessee as aforesaid, Lessor will furnish such information to Lessee.

To the extent that Lessee may be prohibited by law from performing in its own name the duties required by this §6, Lessor hereby authorizes Lessee to act in Lessor's name and on its behalf; provided, however, that Lessee shall indemnify and hold harmless Lessor from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by Lessee pursuant to this authorization.

Lessee shall, whenever reasonably requested by Lessor, submit to Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to Lessor, of Lessee's performance of its duties under this §6. Lessee shall also furnish promptly upon request such data as Lessor reasonably may require to permit Lessor's compliance with the requirements of taxing jurisdictions.

Lessee agrees to pay all amounts due under this §6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof,

shall be equal to the amount of payment otherwise required hereunder. Without limiting the foregoing, the amount which Lessee shall be required to pay with respect to any Taxes subject to indemnification under this §6 shall be an amount sufficient so that, after considering the tax and other effects of the Taxes in question and the receipt of indemnification payments hereunder, the Indemnified Person will have the same anticipated after-tax rate of return on equity and periodic recovery of net cash flow as such Indemnified Person would have realized had such Taxes not been incurred or imposed.

In the event that, during the continuance of this Lease, Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this §6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by Lessee.

§7. Casualty Occurrences and Insurance. Except for a Unit withdrawn from service by Lessor pursuant to §17(b) hereof or returned to and retained by Builder pursuant to Schedule D hereto, in the event that any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States government or any other government or governmental entity for a period which shall exceed the then remaining term of this Lease (or, if such taking or requisition shall occur during a renewal term, for a period which shall exceed the then remaining renewal term), resulting in loss of possession by Lessee for a period of 90 consecutive days or until the end of term or renewal term (as the case may be) of this Lease, whichever is the shorter period (such occurrences being hereinafter called "Casualty Occurrences"), prior to the return of such Unit in the manner set forth in §14 hereof, Lessee shall promptly (but in any event within 30 days after such Casualty Occurrence) and fully notify Lessor with respect thereto. On the Rent Payment Date next succeeding such notice Lessee shall pay to Lessor an amount equal to the Rents in respect to such Unit then due and payable plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of such Rent Payment Date in accordance with Schedule C hereto referred to below. Upon the making of such payments by Lessee in respect of any Unit, the Rents for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and Lessee shall be entitled to recover and/or retain possession of such Unit for its own interest, use and disposition.

Lessor hereby appoints Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis and Lessee shall notify Lessor prior to any such disposition. Provided that Lessee has previously paid the Casualty Value to Lessor, Lessee shall be entitled to the net proceeds of such disposition to the extent they do not exceed the Casualty Value of such Unit, and shall pay any

excess to Lessor. Lessee will pay all costs and expenses in connection with the sale of any Unit pursuant to a Casualty Occurrence.

The Casualty Value of each Unit as of any Rent Payment Date shall be an amount determined by multiplying the purchase price paid by Lessor for the Unit under the Purchase Order (the "Purchase Price") by the percentage as set forth in Schedule C hereto opposite such date.

Whenever any Unit shall suffer a Casualty Occurrence after the final payment of Rent in respect thereof is due pursuant to §3 hereof and before such Unit shall have been returned in the manner provided in §14 hereof, Lessee shall promptly (as provided above) and fully notify Lessor with respect thereto and pay to Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 97.9% of the Purchase Price for such Unit; provided, however, that if the term of this Lease shall have been renewed pursuant to §13 hereof, then the applicable Casualty Value shall be the fair market value of such Unit, as of the Rent Payment Date on or next preceding the date of such Casualty Occurrence, determined as provided in the following sentence. For the purposes of the preceding sentence, the term "fair market value" of a Unit shall, at the beginning of any five-year renewal term, be equal to the Fair Market Purchase Price of such Unit at such time as determined by the Lessor and Lessee and in the event they do not agree upon such Fair Market Purchase Price it shall be determined by an independent appraiser selected and jointly employed by the Lessor and Lessee and his decision in this matter shall be final. The Fair Market Purchase Price shall decline or increase on a straight-line basis (computed on the basis of a 360-day year of twelve (12) 30-day months) to the estimated Fair Market Purchase Price of such Unit at the end of such renewal term, such Fair Market Purchase Price at the end of such renewal term to be determined at the same time and in the same manner as provided in the immediately preceding sentence. Upon the making of any such payment by Lessee in respect of any Unit, Lessee shall be entitled to recover and/or retain possession of such Unit for its own interest, use and disposition.

In the event of the requisition (other than a requisition which constitutes a Casualty Occurrence) for use by the United States Government or by any other government or governmental entity (hereinafter collectively called the "Government") of any Unit during the term of this Lease or any renewal thereof, all of Lessee's obligations (including without limitation the obligation to pay Rent) under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, Lessee shall be obligated to return such Unit to Lessor pursuant to §11 or §14 hereof as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but

Lessee shall in all other respects comply with the provisions of said §11 or §14, as the case may be, with respect to such Unit. All payments received by Lessor or Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, Lessee, provided (i) no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, but (ii) notwithstanding the preceding clause (i), the amount of any such payment which is a duplication of a payment previously made by Lessee to Lessor for such Unit shall be paid over to, or retained by, Lessee. All payments received by Lessor or Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by Lessor.

Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after Delivery and Acceptance thereof, except as hereinabove provided in this §7, and with respect to a Unit permanently withdrawn from service by Lessor pursuant to §17(b) hereof.

Lessee agrees that it will at all times during the term of this Lease and during any return and storage period hereunder and at its own cost and expense keep each Unit insured against such risks and in such amounts as are customarily insured against by railroad companies, and, in any event, insured in the same manner and to the same extent that the Lessee insures other similar equipment which it owns or leases; and will maintain general public liability insurance with respect to the Units against liability because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit of not less than \$20,000,000 in the aggregate in any single occurrence. Any such property insurance may have deductible provisions to no greater extent than \$2,000,000 in the aggregate in any single occurrence, and any public liability insurance may have deductible provisions to no greater extent than \$2,000,000 in the aggregate in any single occurrence and, in any event, not less comprehensive in amounts and against risks customarily insured against by Lessee in respect of similar equipment owned or leased by it. All policies with respect to such insurance shall name Lessor, and any lender having a security interest in any of the Units and designated by Lessor in a notice to Lessee, as additional named insureds or loss payees, as their interests may appear, shall provide for at least 30 days' prior written notice by the insurance carrier to Lessor and any such lender in the event of cancellation, expiration or amendment, shall include waivers by the insurer of all claims for premiums against Lessor and any such lender, and shall provide that losses are payable notwithstanding, among other things, any act of negligence of Lessee, Lessor or any such lender, more hazardous use or occupation of the Units than that permitted by such policies, or foreclosure, notice of sale or any other proceeding in respect of the Units, or any change in the title to or

ownership of any of the Units. Each such insurance policy shall expressly provide that all the provisions thereof except the limits of liability (which shall be applicable to all insureds as a group) and liability for premiums (which shall be solely a liability of Lessee) shall operate in the same manner as if they were a separate policy covering each insured and shall be primary without right of contribution from any insurance carried by Lessor. Lessee shall not later than January 17, 1983 furnish to Lessor and each such lender a certificate of an independent insurance broker acceptable to Lessor and such lenders evidencing the maintenance of the insurance required hereunder and shall furnish to them the certificates evidencing renewal thereof prior to the expiration date of such policy or policies. If Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, Lessor shall, subject to Lessee's having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by Lessee and any balance of such proceeds or condemnation payments shall remain the property of Lessor. All insurance proceeds received by Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to Lessee upon proof satisfactory to Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired, provided (i) such Unit is in the same condition as at the time Delivered and Accepted, ordinary wear and tear excepted, suitable for interchange service in accordance with the AAR Rules, and (ii) Lessor has not paid the cost of such repairs.

§8. Reports. On or before April 1 in each year, commencing April 1, 1984, Lessee will furnish to Lessor a certificate signed by the Chief Mechanical Officer of Lessee or other qualified officer satisfactory to Lessor,

(a) setting forth as of the preceding December 31 the amount, description and numbers of all Units then leased hereunder, and the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year and such other information regarding the condition and state of repair of the Units as Lessor may reasonably request,

(b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by §5 hereof have been preserved or replaced, and

(c) setting forth the identification numbers of all Units which are then in operating condition.

Lessor, at its sole risk and expense, shall have the right by its agents to inspect the Units and Lessee's records and reports with respect thereto at such reasonable times as Lessor may request during the continuance of this Lease but Lessor shall have no obligation to do so.

Lessee shall promptly notify the Lessor of any occurrence of an Event of Default or other event which after notice or lapse of time or both, would become an Event of Default, specifying such Event of Default and all such events and the nature and status thereof.

§9. Warranties; Compliance with Laws and Rules; Indemnification. LESSOR REPRESENTS AND WARRANTS TO THE LESSEE (i) THAT AT THE TIME THE UNITS ARE DELIVERED AND ACCEPTED, LESSOR WILL BE THE LAWFUL OWNER OF SAID UNITS, AND (ii) THAT AT THE TIME THE UNITS ARE SHIPPED TO THE DELIVERY POINT FROM BUILDER'S PLANT OR PLACE OF STORAGE, THEY WILL MEET THE SPECIFICATIONS REFERRED TO IN SCHEDULE A HERETO ("SPECIFICATIONS"), AS APPLICABLE THERETO, AND LESSOR WILL HAVE NO KNOWLEDGE OF ANY DEFECTS IN THE MATERIAL AND WORKMANSHIP APPLICABLE TO THE UNITS. LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF BUILDER OR LESSOR) OR ANY OTHER REPRESENTATION OR WARRANTY, EXCEPT AS HEREIN SPECIFICALLY PROVIDED, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE. So long as Lessee is not in default hereunder, Lessor hereby authorizes Lessee, during the term of this Lease to assert and enforce from time to time, in the name of and for the account of Lessor and/or Lessee, as their interests may appear, at Lessee's sole cost and expense, whatever claims and rights Lessor may have against Builder under the provisions of the Builder's Warranty Agreement, a copy of which is attached hereto as Schedule D; provided however, nothing in this sentence shall (i) obligate either Lessor or Lessee to assert and enforce any of the aforementioned claims and rights Lessor may have against Builder, or (ii) preclude Lessor, at its sole cost and expense, from asserting and enforcing any of the aforementioned claims and rights against the Builder. Except as provided in this §9 or §17, Lessor shall have no responsibility or liability to Lessee or any other person with respect to any of the following:

(i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith;

(ii) the use, operation or performance of any Units or any risks relating thereto;

(iii) any interruption of service, loss of business or anticipated profits or consequential damages; or

(iv) the delivery, operation, subleasing, servicing, maintenance, repair, improvement or replacement of any Units.

Lessee agrees, for the benefit of Lessor, at all times to comply in all respects (including, without limitation, with respect to the use, maintenance [excluding maintenance required by Lessor under §17(b)], and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof, such laws or rules require that during that time any alteration, replacement, addition or modification of or to any part of any Unit to the extent not covered by §17, Lessor shall assume the responsibility and cost for such conformance or Lessor shall authorize Lessee, at Lessor's cost and expense, to make such alterations, replacements, additions or modifications. If Lessor makes or authorizes Lessee to make any such alterations, replacements, additions or modifications of or to any part of any Unit pursuant to the preceding sentence, (a) the Basic Rent referred to in §3(a)(ii) and §13 shall be increased by an amount equal to the product of (x), .00556, multiplied by (y), the total of the Lessor's costs and expenses with respect thereto, effective with and payable commencing the month following the month in which such alterations, replacements, additions or modifications are made for a Unit in question and (b) the Purchase Price will be increased by the amount of such costs and expenses. Provided, however, that either Lessor or Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not adversely affect the property or rights of Lessor or Lessee under this Lease. Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units). The additions, modifications and improvements made by Lessee under the preceding sentence shall be owned by Lessee (or such other party as may have title thereto), except to the extent such additions, modifications or improvements are described in the following sentence. Any and all parts installed on and additions and replacements made to any Unit

(i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of the provisions contained hereinabove or which are not removed

by Lessee prior to surrendering possession thereof pursuant to the provisions of §11 or §14 hereof,

(ii) the cost of which is included in the purchase price paid by Lessor for such Unit pursuant to the Purchase Order,

(iii) in the course of ordinary maintenance of the Units, or

(iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the United States Department of Transportation or any other regulatory body,

shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in Lessor.

Except as provided in §17(b) hereof and excluding matter attributable to a breach by Lessor of its warranties contained in the first paragraph of this §9, Lessee shall pay, and shall protect, indemnify and hold Lessor and its successors, assigns, agents and servants but excluding Builder (hereinafter in this §9 the "Indemnified Persons"), harmless from and against any and all losses, injuries, causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, reasonable attorneys' fees and other expenses of any Indemnified Person relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including those in any way relating to or arising or alleged to arise out of

(i) the acceptance, ownership, lease, possession, use, operation, condition, storage, return or other disposition of any Unit or portion thereof;

(ii) any latent or other defects whether or not discoverable by any Indemnified Person or Lessee;

(iii) any claims based on strict liability in tort;

(iv) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, operation, condition, use, adaptation, maintenance, possession, storage or return of the Units or

of any other equipment in connection with the Units (whether owned or under the control of Lessor, Lessee or any other person) or resulting or alleged to result from the condition of any thereof; or

(v) any violation, or alleged violation, of any provision of this Lease (except by Lessor) or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, adaptation or maintenance thereof.

Lessee shall be obligated under this §9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against Lessee under this §9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, Lessee may and, upon such Indemnified Person's request, will at Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by Lessee and approved by such Indemnified Person and, in the event of any failure by Lessee to so do, Lessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event Lessee is required to make any payment under this §9, Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States of America or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against) shall be equal to the amount of such payment. Lessee and Lessor each agrees to give the other written notice of any claim or liability hereby indemnified against promptly upon obtaining knowledge thereof. Upon the payment in full of any indemnities as contained in this §9 by Lessee, Lessee shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by Lessee pursuant to this §9 shall be paid over to Lessee to the extent necessary to reimburse Lessee for indemnification payments previously made in respect of such matter.

Except as herein provided, Lessee shall bear the responsibility and risk for, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any or all of the Units.

Lessee agrees to prepare and deliver to Lessor within a reasonable time prior to the required filing date (or, to the extent permissible, file on behalf of Lessor) any and all reports (other than Tax returns for which provision is made in §6 hereof) to be filed by Lessor with any Federal, state or other regulatory authority by reason of the ownership by Lessor of the Units, or the leasing thereof to Lessee.

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

(a) Default shall be made in payment of any amount provided for in §3, §6, §7, §13 or §17 hereof, and such default shall continue for five business days;

(b) Lessee or any Reorganized Company (the term "Reorganized Company" as used in this Lease shall mean any corporation and its successors and assigns including, without limitation, Milwaukee Road, which holds, acquires or otherwise succeeds to all or substantially all of the property and business of Milwaukee Road upon adoption of a plan of reorganization with respect to Milwaukee Road and the termination of the Reorganization Proceedings) shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

(c) The Lessee shall fail to provide the insurance required by §7 of this Lease;

(d) Default shall be made in observance or performance of any other of the covenants, conditions and agreements on the part of Lessee or any Reorganized Company contained herein, and such default shall continue for 30 days after written notice from Lessor to Lessee specifying the default and demanding that the same be remedied;

(e) A petition for reorganization under Title 11 of the United States Code (as now or hereafter constituted) shall be filed by or against any Reorganized Company and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of any Reorganized Company under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed, and otherwise in accordance with the provisions of 11 U.S.C. §1168, or any successor provision, as the same may hereafter be amended;

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

(g) Any of the Lessee's obligations hereunder shall not be accorded priority as expenses of administration in the Reorganization Proceedings or the order of the Court entered in the Reorganization Proceedings authorizing the execution and delivery of this Lease shall otherwise not be affected in accordance with its terms or be revised, modified, amended, terminated or superseded in any respect (other than a termination of this Lease pursuant to the Early Termination Order) which would, without Lessor's prior written consent, involve the possibility of materially and adversely affecting the rights, powers, privileges or remedies of the Lessor; or

(h) If without Lessor's prior written consent, any term or provision of this Lease is revised, modified, amended, terminated or superseded in any respect in connection with the Reorganization Proceedings or, in the event any plan of reorganization is adopted in connection with the Reorganization Proceedings and said plan shall fail to provide for the payment of the Lessee's obligations hereunder, accrued prior to the consummation of the plan, as an expense of administration;

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

(i) proceed by appropriate court action or actions at law or in equity to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of Federal and state income tax benefits to which Lessor would otherwise be entitled under this Lease;
or

(ii) by notice in writing to Lessee terminate this Lease, whereupon all rights of Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as herein provided; and thereupon Lessor may by its agents, subject to compliance with all mandatory requirements of law, enter upon the premises of Lessee or other premises where any of the Units may be and take possession of all or any such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to Lessee for such action or inaction or for any proceeds arising therefrom, but Lessor shall, nevertheless, have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the Rent for any number of days less than a full Rent period by multiplying the Rent for such full Rent period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such a full Rent period) and also to recover forthwith from Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all Rents for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the Rents which Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 12.0% per annum discount, compounded semiannually from the respective dates upon which Rents would have been payable hereunder had this Lease not been terminated plus (B) an amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of Lessor, be equal to all or such portion of the Investment Credit (as defined in §16 hereof) lost, not claimed, not available for claim, disallowed or recaptured by or from Lessor as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by Lessee in §16 or any other provision of this Lease or the sale or other disposition of Lessor's interest in any Unit after the occurrence of an Event of Default, plus such sum as shall cause Lessor's net return under this Lease to be equal to

the net return that would have been available to Lessor if it had been entitled to utilization of all or such portion of the Cost Recovery Deduction and the Interest Deduction (as such deductions are defined in §16 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by Lessee in §16 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to Lessor by Lessee, the termination of this Lease, Lessee's loss of the right to use such Unit, any action or inaction by Lessee or the sale or other disposition of Lessor's interest in such Unit after the occurrence of an Event of Default plus such sum as will pay or reimburse Lessor for any interest, penalties or additions to tax incurred in connection with such loss, failure to claim, inability to claim, disallowance or recapture; or (y) an amount equal to the excess, if any, of the Casualty Value as of the Rent Payment Date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event Lessor shall have sold any Unit, Lessor, in lieu of collecting any amounts payable to Lessor by Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that Lessee pay Lessor, and Lessee in such event shall pay to Lessor, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the Rent Payment Date on or next preceding the date of termination, over the net proceeds of such sale.

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

The remedies in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. Lessee hereby waives any and all existing or future claims to any offset against the Rent payments due hereunder and agrees to make such payments regardless of any offset or claim which may be asserted by Lessee or on its behalf. Lessee hereby waives any and all claims against Lessor and its agent or agents for damages of whatever nature in connection with any retaking of any Unit in any reasonable

manner. Lessor and Lessee agree that Lessor shall be entitled to all rights (such rights being fundamental to the willingness of Lessor to enter into this Lease) provided for in Section 77 of the Federal Bankruptcy Act or any comparable provision of any amendment thereto, or of any other bankruptcy act, so that Lessor shall have the right to take possession of the Units upon an Event of Default under this Lease regardless of whether Lessee or any Reorganized Company is in reorganization, subject to the provisions of 11 U.S.C. §1168 or Section 77 of the Federal Bankruptcy Act.

No failure by Lessor to exercise, and no delay by Lessor in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege by Lessor preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

If Lessee fails to perform or comply with any agreement, covenant or condition contained in this Lease, and such nonperformance or noncompliance could, with the lapse of time and/or demand or failure to take action, result in an Event of Default under clause (a) or (c) of this §10, Lessor may, upon notice to Lessee, itself perform or comply with such agreement, covenant or condition and the amount of the reasonable costs and expenses of Lessor incurred in connection with such performance or compliance, together with interest on such amounts at the rate of the greater of (i) 18.0% or (ii) 1.25 times the "prime" or "base" rate of interest announced from time to time by Continental Illinois National Bank and Trust Company of Chicago or such lesser amount as may be legally enforceable, per annum, shall be payable to Lessor by Lessee upon demand.

§11. Return of Units upon Default. If this Lease shall terminate pursuant to §10 hereof, Lessee shall forthwith deliver possession of the Units to Lessor. Subject to maintenance and repair of the Unit required by Lessor pursuant to §17(b) hereof, each Unit so delivered shall be in the same condition as when Delivered and Accepted, ordinary wear and tear excepted, suitable for interchange service in accordance with the AAR Rules. For the purpose of delivering possession, Lessee shall:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) place such Units upon such storage tracks of Lessee for up to 180 days as Lessor reasonably may designate;

(b) permit Lessor to store such Units on such tracks at the risk of Lessee for up to 180 days without charge for insurance

(which shall conform to the provisions of §7 hereof), rent or storage; and

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

The assembling, delivery, storage, insuring and transporting of the Units as hereinbefore provided shall be at the expense and risk of Lessee and are of the essence of this Lease, and, upon application to any court of equity having jurisdiction, Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to assemble, deliver, store and transport the Units. During any storage period, Lessee will, at its own expense, maintain and keep the Units in the same condition as when Delivered and Accepted, ordinary wear and tear excepted, suitable for interchange service in accordance with the AAR Rules, but subject to Lessor's obligations with respect thereto required by §17(b) and will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same at their own risk and expense. All Rent and per diem charges earned in respect of the Units after the date of such termination of this Lease shall belong to Lessor and, if received by Lessee, shall be promptly turned over to Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, Lessee shall, in addition, pay to Lessor for each day thereafter an amount equal to the amount, if any, by which 1/30 of the next preceding Basic Rent payment applicable to such Unit for each such day exceeds the actual earnings received by Lessor with respect to such Unit for each such day.

Without in any way limiting the foregoing obligations of Lessee under this §11, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of any Unit to Lessor, to demand and take possession of such Unit in the name and on behalf of Lessee from whomsoever shall be in possession of such Unit at the time.

§12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by Lessor without the consent of Lessee, but Lessee shall be under no obligation to any assignee of Lessor, except upon written notice of such assignment from Lessor. All the rights of Lessor hereunder shall inure to the benefit of Lessor's successors and assigns.

So long as no Event of Default exists hereunder, Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and, without the prior written consent of Lessor, Lessee may sublease (which sublease shall be subject to the rights and remedies of Lessor hereunder) the Units to, or permit

their use by, a user incorporated in the United States of America (or any state thereof or the District of Columbia), upon lines of a railroad owned or operated by Lessee or such user or by a railroad company or companies incorporated in the United States of America (or any state thereof or the District of Columbia), or over which Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains, and upon the lines of railroads of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to all the terms and conditions of this Lease; provided, however, that Lessor's consent, not to be unreasonably withheld, must be obtained for any sublease that is for a term longer than six months or is renewable for a term more than six months; provided, further, however, that Lessee shall not sublease or permit the sublease or use of any Unit to service involving operation or maintenance outside the United States of America except that occasional service in Canada shall be permitted so long as such service in Canada does not involve regular operation and maintenance outside the United States of America; and provided, further, however, that any such sublease or use shall be consistent with the provisions of §16 hereof. No such assignment or sublease shall relieve Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by Lessor by its actions under §17(b) hereof, or resulting from claims against Lessor or Builder) upon or with respect to any Unit or the interest of Lessor or Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

Notwithstanding anything in this Lease contained to the contrary, Lessee shall have the right to assign its rights and interest under this Lease, without the consent or approval of Lessor, to either (i) a Reorganized Company, or (ii) a corporation into or with which Lessee shall have become merged or consolidated or which shall have acquired all or substantially all of the assets of Lessee; provided, that any such assigns, successors or transferees shall have duly assumed the obligations of Lessee hereunder and they will not, upon the effectiveness of such assignment, merger, consolidation or acquisition of assets, and the assumption of Lessee's obligations under the Lease, be in default under any provision of this Lease and Lessee is not then in default hereunder. Upon the due assumption of said obligations of Lessee by any permitted party as aforesaid in this paragraph, Lessee shall be relieved of all obligations to make payments accruing from and after the date of such assignment or transfer and all such other obligations hereunder as shall arise after said date of assignment or transfer.

Lessee agrees that at all times during the term of this Lease, the Units will be used in a manner so as to constitute rolling stock of a domestic railroad corporation as defined in Section 48(a)(2)(B)(ii) of the Code (as hereinafter defined).

§13. Renewal Option. Provided that this Lease has not been earlier terminated and Lessee is not in default hereunder, Lessee may by written notice delivered to Lessor not less than six months prior to the end of the original term of this Lease, elect to renew the term of this Lease in respect of all but not fewer than all the Units then covered by this Lease, for an additional five (5) year period commencing on the scheduled expiration of the original term, at a Basic Rent of \$366.00 per Unit per month payable in equal monthly installments in arrears on the last day of each month during the renewal term and the rate for the Repair Fees and time of payment thereof shall be subject to the mutual agreement of the Lessor and Lessee prior to such renewal (which required payments and payment dates shall be deemed Basic Rent, Repair Fees and Rent Payment Dates, as applicable, during the renewal term).

§14. Return of Units upon Expiration of Term or Early Termination. Upon the expiration of the original or any extended term of this Lease with respect to any Unit, unless otherwise agreed in writing by Lessor and Lessee, Lessee will at its own cost and expense, deliver possession of such Unit to Lessor at any off junction point on Lessee's lines designated by Lessor with Lessor supplying to Lessee complete shipping instructions including final destination and consignee. Each Unit returned to Lessor pursuant to this §14 shall be, subject to the maintenance and repair of the Unit required by Lessor pursuant to §17(b) hereof, in as good a condition as when Delivered and Accepted, ordinary wear and tear excepted, suitable for interchange service in accordance with the AAR Rules. Lessee will permit Lessor or any person designated by Lessor, including the authorized representatives of any prospective purchaser, lessee or user of any such Unit, to inspect at their own risk and expense the same in any place where they might be stored prior to such delivery. The assembling for delivery and delivery as hereinbefore provided of the Units are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance thereof. Until the date returned, Lessee shall pay to the Lessor for each day from the date of such termination (or if later, Lessee's receipt of Lessor's complete shipping instructions) an amount equal to (i) \$10.95 per day per Unit for the first 15 such days, and (ii) \$20.00 per day per Unit for each day thereafter.

§15. Recording. Lessee, at its own expense, will cause this Lease and any assignment hereof to be filed in accordance with 49 U.S.C. §11303. Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required

by law or reasonably requested by Lessor for the purpose of proper protection, to Lessor's satisfaction, of Lessor's rights in the Units, or for the purpose of carrying out the intention of this Lease and any assignments thereof and Lessee will promptly furnish to Lessor evidence of the doing of all such acts which may be required under this §15, and an opinion or opinions of counsel for Lessee with respect thereto satisfactory to Lessor. This Lease shall be filed with the Interstate Commerce Commission prior to the Delivery and Acceptance hereunder of any Unit.

§16. Indemnity for Federal and Other Income Tax Benefits.

(a) Loss of Investment Credit, Cost Recovery Deductions, or Interest Deductions. Except as otherwise provided in §16(b), if by reason of any act of commission or omission (other than acts of commission required by this Lease), misrepresentation, breach of any agreement, covenant, or warranty contained in this Lease on the part of Lessee, Lessor is not allowed or there shall be unavailable, deferred, lost or recaptured (in the year claimed by Lessor or any time thereafter), including recapture pursuant to Section 47 or 1245 of the Code (as defined below) or any successor provisions thereto, in whole or in part:

(i) Investment credits under Section 38 of the Internal Revenue Code ("Code") with respect to the Units, in calendar year 1983, of not less than 10% of Lessor's Cost (as defined in §16(f) hereof) of the Units ("Investment Credit"); or

(ii) Deductions under Section 168 of the Code with respect to the basis of the Units, which basis shall be at least equal to Lessor's Cost less the basis adjustment required by Section 48(q)(1) of the Code, calculated using the applicable percentages for five-year property (as defined in Section 168(c)(2)(B) of the Code) provided in Section 168(b)(1)(A) of the Code and calculated on the assumption that each Unit is placed in service by Lessor on the date on which such Unit is Delivered and Accepted under this Lease ("Cost Recovery Deductions");

(any such failure to allow, unavailability, deferral, loss or recapture being hereinafter called a "Loss"), then Lessee shall pay to Lessor as an indemnity an amount which, after deduction of the net amount of all taxes which would be required to be paid at the highest corporate tax rates then applicable in respect of the receipt of such amount under the laws of all Federal, state or local governments and taxing authorities in the United States of America or in any foreign country which have jurisdiction to tax Lessor, shall be equal to the sum of the aggregate amount of additional income taxes which would be required to be paid from time to time as a result of any such Loss at the highest corporate tax rates applicable under such laws at such time, plus the aggregate amount of any interest, penalties or

additions to tax payable with respect thereto. Any amount payable to Lessor pursuant to this §16(a) shall be payable not later than 30 days after receipt of a written demand therefor from Lessor accompanied by a written statement describing in reasonable detail such Loss and the computation of the amount so payable. Subject to the provisions of §16(e), Lessor may make such demand upon filing a tax return which, on advice of independent counsel reasonably acceptable to Lessor and Lessee, reflects such Loss, or if such Loss is not reflected in a tax return, upon or after receipt by Lessor of a written notice from a taxing authority making or proposing an adjustment resulting in such Loss, or at or after the time when Lessor makes a tax payment as a result of such Loss.

(b) Exceptions. Lessee shall not be required to make any payment to Lessor pursuant to the provisions of §16(a) on account of any Loss which is a direct result solely of any one or more of the following causes:

(i) the failure by Lessor to have sufficient Federal income tax liability against which to apply such Investment Credit or sufficient income to benefit from such Cost Recovery Deductions (after taking into account carry-backs and carry-overs allowable by law);

(ii) the failure of Lessor to claim in a timely and proper manner on its income tax returns for the appropriate years any credits or deductions contemplated by paragraph (a) of this §16, unless Lessor shall have been advised by independent tax counsel selected by Lessor and approved by Lessee (which approval shall not be unreasonably withheld), that there is no reasonable basis for claiming any such deduction or credit;

(iii) a voluntary transfer by Lessor of ownership of the Units if such transfer (A) shall occur at any time while no Event of Default has occurred and is continuing and (B) shall not be pursuant to the written consent of Lessee;

(iv) any amendment to, or change in, the Code, the income tax regulations thereunder or published administrative or judicial interpretation of the Code or such regulations;

(v) any acts or omissions of Lessor relating to the transactions contemplated hereby and inconsistent therewith, including but not limited to Lessor's obligations and actions taken under 17(b) hereof, or

(vi) any event as a result of which Lessee has paid Casualty Value or an amount calculated by reference to Casualty Value, but only to the extent to

which Lessor is made whole for such Loss by reason of such payment.

(c) Additional Expenditures. If for any reason all or part of the cost or value of any alterations, modifications, improvements, additions, replacements, maintenance or repairs of or to the Units by Lessee or any expenditures by Lessee in respect of the Units or any parts thereof ("Additional Expenditures") made by Lessee under and pursuant to the terms of this Lease or otherwise during the term of this Lease is required, pursuant to advice of independent tax counsel selected by Lessor and approved by Lessee (which approval shall not be unreasonably withheld) or on audit by the Internal Revenue Service or other taxing authority, to be included in the gross income of Lessor for income tax purposes (under circumstances in which Lessor is not entitled to deduct such amount in the same taxable year), then Lessee shall pay to Lessor not later than 30 days after receipt of a written demand therefor accompanied by a written statement describing in reasonable detail the computation of the amount payable, an amount which, taking into consideration any additional Investment Credit or Cost Recovery Deductions attributable to such Additional Expenditures and after deduction of the net amount of all taxes which would be required to be paid at the highest corporate tax rates then applicable in respect of the receipt of such amount under the laws of all Federal, state or local governments and taxing authorities in the United State of America or in any foreign country which have jurisdiction to tax Lessor, shall be equal to the sum of the aggregate amount of additional Federal, state, local and foreign income taxes which would be required to be paid from time to time in respect of such inclusion at the highest corporate tax rates applicable under such laws at such time and the aggregate amount of any interest, additions to tax or penalties payable with respect thereto. Subject to the provisions of §16(e) hereof, Lessor may make such demand upon filing a tax return which on advice of counsel reflects such inclusion, or if such inclusion is not reflected in a tax return, upon or after receipt by Lessor of a written notice from a taxing authority making or proposing an adjustment resulting in such inclusion, or at or after the time when Lessor makes a tax payment as a result of such inclusion. If there is a dispute between the Lessor and the Lessee regarding matters arising out of this §16(c) or §16(a) or §16(d), such dispute shall be determined by a recognized public accountant as the parties shall agree upon and the costs of such accountant's services shall be shared equally by Lessor and Lessee. The decision of such accountant shall be final and binding upon the Lessor and the Lessee. However, such accountant shall have no power to change any of the terms of this Lease as its authority is limited to disputed matters related to this §16(c) and §16(a) and §16(d).

(d) Foreign Source Losses. If any payments by Lessee under this Lease shall be characterized for Federal income tax purposes of Lessor as gross income from sources without the United States of America and any part of the Cost Recovery Deductions of

Lessor is required to be allocated to such gross income with the result that there is in any taxable period of Lessor negative taxable income from sources without the United States of America attributable to the use of the Units outside of the United States of America ("Foreign Source Losses") and if such Foreign Source Losses result in a reduction of the foreign tax credits which would otherwise be available to Lessor in such taxable period in the absence of such Foreign Source Losses, Lessee shall pay to Lessor an amount which, after deduction of the net amount of all taxes which would be required to be paid at the highest corporate tax rates then applicable in respect of the receipt of such amount under the laws of any Federal, state or local government or taxing authority in the United States of America or in any foreign country which has jurisdiction to tax Lessor, shall be equal to the amount of such reduction in foreign tax credits plus the aggregate amount of any interest, penalties or additions to tax payable with respect thereto.

(e) Proceedings. In the event a claim shall be made by the Internal Revenue Service or other taxing authority which, if successful, would result in an obligation on the part of Lessee to indemnify any Indemnified Person (as defined in §6 hereof) pursuant to §6, §16(a), §16(c) or §16(d) hereof, such Indemnified Person hereby agrees to exercise in good faith reasonable efforts to avoid requiring Lessee to pay such indemnity; provided, however, that, subject to the following paragraph, such Indemnified Person, in its reasonable discretion may determine whether or not to undertake judicial or administrative proceedings beyond the level of an auditing agent with respect to any such claim, and provided further, that, subject to the following paragraph, such Indemnified Person shall not be required to take any action unless and until Lessee shall have furnished such Indemnified Person with an opinion of independent tax counsel satisfactory to such Indemnified Person to the effect that a meritorious defense exists to such claim and shall have secured payment to such Indemnified Person in a manner satisfactory to it for any liability or loss which such Indemnified Person may incur as a result of such claim and the contesting thereof and shall have agreed to pay such Indemnified Person on demand all costs and expenses which it may incur in connection with such claim, including, without limitation,

(i) reasonable attorneys', accountants', engineers' and like professional fees and disbursements, and

(ii) in the event that such Indemnified Person shall elect to contest the claim by paying the tax claimed and then seeking a refund thereof, or shall be required to make payment at the conclusion of the contest, the amount of such tax and interest, additions to tax and penalties thereon, if any, all in the manner and amount provided in §6, §16(a), §16(c), or §16(d) hereof, as the case may be.

In the case of any written claim or notice by the Internal Revenue Service or other taxing authority which, if successful, would result in an indemnity payment by Lessee pursuant to §6, §16(a), §16(c), or §16(d) hereof, such Indemnified Person agrees

(i) within 30 days to notify the Lessee in writing of such claim and of any action taken or proposed to be taken by the Internal Revenue Service or other taxing authority with respect thereto,

(ii) if legally permitted, not to make payment of the tax claimed for at least 30 days after the giving of such notice provided that such delay in payment is not determined by such Indemnified Person to have adverse consequences,

(iii) to give to Lessee any relevant information relating to such claim which may be particularly within the knowledge of such Indemnified Person, and,

(iv) if requested by Lessee, to consult with Lessee in good faith prior to taking any action to contest such claim, provided, that should Lessee and such Indemnified Person disagree concerning any action to be taken in connection with contesting such claim, the decision of such Indemnified Person shall be controlling.

Notwithstanding the foregoing provisions of this §16(e), (1) if requested by Lessee, such Indemnified Person shall, at Lessee's expense, obtain an opinion from independent counsel selected by such Indemnified Person and reasonably acceptable to Lessee as to whether the basis in law and in fact in favor of taxpayer's position with respect to such claim outweighs the basis in law and in fact in favor of the position of the Internal Revenue Service or other taxing authority, and, if such opinion is to such effect, such Indemnified Person shall, at Lessee's request, contest such claim at least to one judicial level in the forum and at the time chosen by such Indemnified Person provided that Lessee furnishes such Indemnified Person with security for the taxes claimed and costs and expenses as provided in the preceding paragraph, and if such Indemnified Person fails to make such contest it shall lose its rights to indemnity with respect to such claim; and (2) an Indemnified Person in its sole discretion (by written notice to Lessee) may unconditionally waive its rights to the indemnities set forth in §6, §16(a), §16(c), or §16(d) hereof with respect to any specifically designated liability indemnifiable under any of such provisions and refrain from contesting such specifically designated liability, in which event Lessee shall have no liability to such Indemnified Person hereunder with respect to such specifically designated liability, it being understood that any such waiver shall be without prejudice to the rights of such Indemnified Person to indemnity with respect to any other liability indemnifiable under such provisions.

(f) Special Definitions. For purposes of this §16, where appropriate, the term "Indemnified Person" shall mean the Indemnified Person in question and the affiliated group, within the meaning of Section 1504 of the Code (or similar provisions of other tax laws), of which such Indemnified Person is a member, if consolidated returns are filed for such affiliated group for income tax purposes. Also for such purposes, references to "corporate tax rates" shall include surtaxes as well as normal taxes and "Lessor's Cost" means the aggregate purchase price paid by Lessor for the Units pursuant to the Purchase Order.

(g) Effect of Other Indemnities. Lessee's obligations under the indemnities provided for in this §16 shall be those of a primary obligor whether or not the person indemnified shall also be indemnified with respect to the same matter under the terms of any other document or instrument, and the person seeking indemnification from Lessee pursuant to any provision of this §16 may proceed directly against Lessee without first seeking to enforce any other right of indemnification.

§17. Maintenance and Rent Abatement.

(a) Maintenance (Lessee). Lessee will be responsible only for maintenance and repair (i.e., repair includes material and labor), and the costs related thereto, for those items applicable to the Units included in "Delivering Line Responsibilities" as that term is described in Section B of Rule 95 of the Field Manual of the Association of American Railroads Interchange Rules (the "Field Manual") and for "Handling Line Responsibilities", as that term is described in Section A of Rule 95 of the Field Manual, when Lessee has knowledge that Lessee has caused the Section A of Rule 95 damage or there is a record of Lessee causing such Section A of Rule 95 damage.

Lessee is hereby authorized by Lessor to receive all bills, communications and notices from railroads regarding Running Repairs, Owner Responsibility Repairs, reports of damage to or destruction of the Units and to make settlements with railroads relating to damage to Units which is an Owner's Responsibility under the Field Manual. In the event any Unit suffers damage for which another railroad is responsible in accordance with the Field Manual, Lessee will handle all dealings with such railroad to recover payments from such railroad.

All repairs, maintenance and other work on the Unit (other than Owner Responsibility Repairs referred to in §17(b) which require owner's consent under Rule 108 of the Field Manual prior to repair) may be performed at a shop operated by Lessee or foreign railroad or a shop designated by Lessee or Lessor at the rates for labor and materials for such work set forth in the AAR rules in effect at the time of such work.

On a best efforts basis, Lessee will provide Lessor with (i) billing repair cards for all repairs made to the Units with each month's billing statement under §17(a) and §17(b), and (ii) annually with a report of the mileage of each Unit.

(b) Maintenance (Lessor). Lessor will be responsible for all costs for repairs to the Units caused by ordinary wear and tear under normal use and service ("Running Repairs" - i.e. minor, itemized standard repairs performed and billed by the railroads in accordance with the Interchange Rules) and "Owner Responsibility Repairs" as that term is described in Rule 108 of the Field Manual. Running Repairs and Owner Responsibility Repairs of or to any Unit shall include any of the matters under the aforesaid Rule 95 which are not Lessee's responsibility under §17(a) hereof. Lessor will be responsible for the repair of defects in the Units caused by a "shaker", except when such defects are covered by a railroad defect card or authority for repair of such defects has been received from an unloader which will bear the cost of such repair. Lessor shall pay all bills for maintenance or repair work performed to the Units by Lessee, private car shops designated by Lessor or Lessee, or by any foreign line railroad, provided that such maintenance or repair work is performed and is required to be paid for by Lessor under the terms of this §17(b). Lessor shall pay all charges hereunder, for which it is responsible, within 45 days after receipt of invoice therefor in the amount set forth in such invoice unless such charges are being contested in accordance with the rules of Association of American Railroads. In such event, if Lessor and Lessee cannot resolve such dispute, an independent arbitrator shall be jointly engaged and his decision in this matter shall be final. However, if Lessor and Lessee cannot agree upon such independent arbitrator then: (i) each shall select an arbitrator, who will be compensated by the selecting party, (ii) the two arbitrators so selected shall jointly select a third arbitrator, who will be compensated equally by Lessor and Lessee, and (iii) said three arbitrators shall consider the matter and their decision shall be final and binding on Lessor and Lessee; provided, however, such arbitrators shall have no authority to change any of the terms of this Lease.

Lessor shall have no liability for fulfilling its maintenance obligations under this §17(b) for delays, acts or omissions beyond its reasonable control or the control of its suppliers including without limitation, acts of Lessee, acts of God, acts of civil or military authorities, embargoes, governmental priorities, fires or other casualty, strikes or other labor disturbances, floods, riot, war, lack or shortage of transportation facilities, delays in transportation or inability or difficulty in obtaining necessary labor or material. In no event shall either party hereto be liable for incidental, consequential or special damages to the other for matters arising out of §17(a) or §17(b) hereof, provided further, nothing contained in this paragraph shall effect matters related to rent abatement as provided by §17(c).

Lessor shall not be liable for or obligated to pay for any cost of the type chargeable to owners of railcars which first require obtaining such owners' consent, as provided in Rule 108 of the Field Manual, until its consent is so given. Therefore, Lessee or any foreign railroad or other entity, having possession of a Unit requiring owner's consent prior to repair shall give notice to Lessor, specifying (i) the Unit and its number, (ii) reporting information required under the aforesaid Rule 108, and (iii) Lessee's estimate of the total number of days it will require for such repair when the Unit is on Lessee's lines or property. Thereafter, Lessor shall promptly notify Lessee (A) to return the specific Unit to a facility designated by Lessor, (B) to hold same at designated places on Lessee's lines or on its property and to permit Lessor to make or have made there the necessary maintenance or repair work, provided, such action by Lessor will not contravene any contractual obligation of Lessee, or (C) to make or have made or authorize a foreign railroad to make or have made the necessary maintenance or repair work. In the event a Unit requires repairs and the owner's consent under Rule 108 of the Field Manual prior to making such repairs, Lessor, in its sole opinion, may deem such Unit unsuitable or uneconomical for such maintenance or repair work and direct Lessee to withdraw such Unit from service and to return it to a facility designated by Lessor. Upon receiving any of the aforesaid notification from Lessor, Lessee shall cause the Unit to be moved or located to the designated location empty and free from all accumulations or deposits in accordance with the aforesaid Rule 108. Lessee will be responsible for routing of the Unit and liable for all tariffs, demurrage, switching, and detention charges for on-line transportation as well as any transportation charges off-line for the first one hundred (100) miles beyond the Lessee's then rail right-of-way and existing trackage rights to the location so designated by Lessor. When the repair cost for the Unit is the responsibility of Lessor hereunder, Lessor shall be responsible for any loading or unloading charges applicable to the Units as provided by the aforesaid Rule 108. Lessor shall also be responsible for transportation charges from repair facilities to Lessee's lines when a Unit is returned from a repair facility designated by Lessor which is not on Lessee's lines or property.

(c) Rent Abatement. Basic Rent, Repair Fee and Interim Rent payments on any Unit out of service for maintenance or repair of the type described in the immediately preceding paragraph which require Lessor's consent under Rule 108 of the Field Manual prior to repair or by reason of withdrawal by Lessor, shall abate from the day following the fifth (5th) working day after the date such Unit is, as Lessor shall so direct, (i) delivered to a facility designated by Lessor, (ii) delivered to the designated place on Lessee's lines or on its property to permit Lessor to make or have made the necessary maintenance or repair work, provided such action by Lessor shall not contravene any contractual obligation of Lessee, or (iii) delivered to Lessee's or a foreign railroad's shop where the necessary maintenance or repair work will be performed or five days after notice is received by Lessor (i.e., such notice may be given by

telephone, wire, telex or letter) that such Unit is in need of repair if Lessor has not provided Lessee with disposition of such Unit within such five day period; and continue until the day the repaired Unit is way billed for return to Lessee; provided, however, if said maintenance or repair is performed by Lessee pursuant to clause (C) of the immediately preceding paragraph, there shall be no abatement of the Basic Rent, Repair Fee or Interim Rent after the last day of Lessee's estimated time period (provided by Lessee pursuant to clause (iv) of the immediately preceding paragraph) required for such maintenance or repair. Notwithstanding anything herein contained to the contrary, there shall be no abatement of Basic Rent, Repair Fee or Interim Rent under this Lease for any reason except as provided in this §17(c) and then such abatement shall apply only to the Unit or Units involved.

In the event Basic Rent, Repair Fee or Interim Rent payments are so abated, then if Lessor so elects, the original term of this Lease shall be extended as to all Units covered by the Lease (or such lesser number of Units as may be arithmetically required) for such period of time as is necessary to give Lessor the total dollar amount of Basic Rent which it would have earned during the original term of the Lease had no abatement of Rent occurred during such term but excluding any Unit permanently withdrawn from service during the term of the Lease.

§18. Trustee. This Lease is binding upon Richard B. Ogilvie not individually but as the Trustee of the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor.

§19. Change in Documents. In clause (iii) of §3(a), reference is made to the figure shown for "Material, prices and wage rates combined (excluding fuel)" as it appears in the document entitled Series RCR -3 AAR Railroad Cost Recovery Index for the United States of America; and in §17(a), §17(b) and/or §17(c), reference is made to the rules of the "Association of American Railroads" and "Field Manual" including definitions of "Handling Line or Delivery Line Responsibilities", "Owner's Responsibilities", "Owner's Responsibility Repairs", "Running Repairs", "Rule 95" and "Rule 108". If, during the term of the Lease or any renewals thereof, any change is made in said definitions or documents which materially changes the rights and/or obligations of either party hereto as they exist on the date of execution of the Lease, Lessor and Lessee shall cause this Lease to be amended, to the extent practical and possible, to restore the rights and obligations of the Lessor and Lessee to a position as near as would have existed had said documents or definitions not been so changed.

§20. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have

been given when mailed, first class, postage prepaid, addressed as follows:

If to Lessor or Indemnified Person:

Portec Lease Corp.
300 Windsor Drive
Oak Brook, IL 60521
Attn: W. W. Farnsworth

If to Lessee:

Chicago, Milwaukee, St. Paul and
Pacific Railroad Company
516 West Jackson Blvd.
746 Union Station Building
Chicago, IL 60606
Attn: Vice President Finance

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

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

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

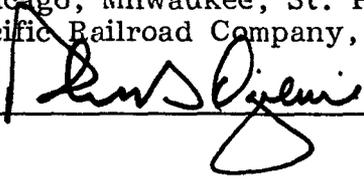
§22. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to Lessor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date of execution hereof by each of the parties hereto is the date stated in the acknowledgment hereto annexed with respect to that party's execution.

§23. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; 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 or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Lease or any assignment hereof shall be filed or deposited.

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

Richard B. Ogilvie,
Trustee of the property of
Chicago, Milwaukee, St. Paul and
Pacific Railroad Company, Debtor

By



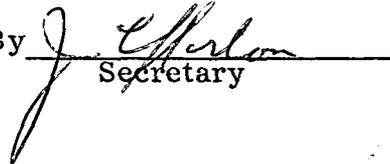
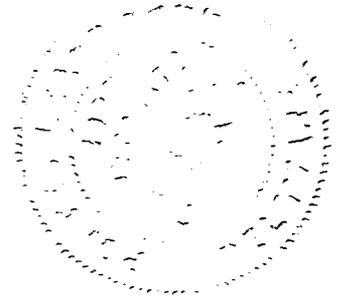
PORTEC LEASE CORP.

By


Vice President

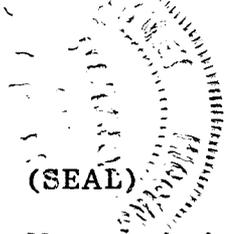
Attest:

By


Secretary

STATE OF ILLINOIS)
)§
COUNTY OF DU PAGE)

On this 10th day of January, 1983 before me personally appeared W. W. Farnsworth, to me personally known, who being by me duly sworn, says that he is Vice President of PORTEC LEASE CORP., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and 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.



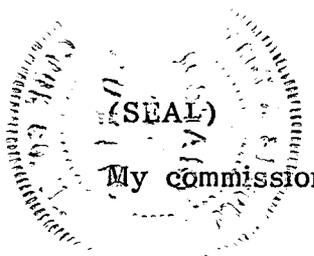
(SEAL)

James Higgins
Notary Public

My commission expires: September 19, 1984.

STATE OF ILLINOIS)
)§
COUNTY OF COOK)

On this 11th day of January, 1983, before me personally appeared Richard B. Ogilvie, to me personally known, who being by me duly sworn says that he is Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor and that the foregoing instrument was signed by him as Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company pursuant to specific order of the United States District Court for the Northern District of Illinois in proceedings No. 77 B 8999.



(SEAL)

James A. Seisald
Notary Public

My commission expires: 10-21-84

SCHEDULE A

to

Lease of Railroad Equipment
between

Portec Lease Corp.
as Lessor

and

Richard B. Ogilvie, Trustee of the Property of
the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor
as Lessee

Information as to The Units

Builder: Portec, Inc. - Railcar Division
Description of The Units: 100-ton, 4,000 cu.ft. capacity
Open Top Hopper Cars
Quantity: 210 Units
Specifications: Specification H-100-801112
and revised 12/1/82
Drawings:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date of Revision</u>
4H-2045-0	03	11/03/82
4H-2045-1	Sheet 1 - Rev. 07	12/06/82
	Sheet 2 - Rev. 01	12/02/82
4H-2045-2	04	12/23/82
4H-2045-3	03	12/02/82
4H-2045-5	05	12/23/82
4H-2045-7	03	11/19/82
4H-2045-8	Sheet 1 - Rev. 04	12/15/82
	Sheet 2 - Rev. 05	12/15/82
4H-2045-14	Sheet 1 - Rev. 04	12/06/82
	Sheet 2 - Rev. 07	12/10/82
	Sheet 3 - Rev. 03	12/02/82

Car Numbers: MILW 120000 thru MILW 120209
both inclusive.

Delivery Point: Louisville, Kentucky

SCHEDULE B

to

Lease between Portec Lease Corp.
as Lessor, and

Richard B. Ogilvie, Trustee of the Property of the
Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor,
as Lessee

CERTIFICATE OF ACCEPTANCE

To: Portec Lease Corp.
300 Windsor Drive
Oak Brook, Illinois 60521

I, a duly authorized representative of Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, Debtor ("Lessee") under the Lease, dated as of September 15, 1982, do hereby certify that I have accepted delivery thereunder on behalf of Lessee of the following Units of Equipment:

TYPE OF EQUIPMENT:	Open Top Hopper Cars
BUILDER:	PORTEC, Inc.
DATE ACCEPTED:	
PLACE ACCEPTED:	Louisville, KY
NUMBER OF UNITS:	
UNIT NUMBERS:	MILW _____

I do further certify that the foregoing Units were accepted by Lessee at the time of their delivery to Lessee's rail lines in Louisville, Kentucky and at that time said Units appeared to be in good order and condition.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder or Lessor named above for any warranties they have made with respect to the Units of Equipment.

Authorized Representative of Lessee

SCHEDULE C

to

Lease between Portec Lease Corp.
as Lessor and

Richard B. Ogilvie, Trustee of the Property of the
Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor
as Lessee

SCHEDULE OF CASUALTY VALUES

The Casualty Value of any Item of Equipment shall be 104.26871% of the Purchase Price during the Interim Period and shall mean an amount equal to the percent of purchase price of such Item of Equipment set forth opposite such in the following schedule:

<u>Month of Term Lease Period</u>	<u>Casualty Value Expressed as a Percentage of Purchase Price</u>	<u>Month of Term Lease Period</u>	<u>Casualty Value Expressed as a Percentage of Purchase Price</u>
1.	99.19565	31.	104.45466
2.	102.56148	32.	104.57377
3.	103.45673	33.	104.69449
4.	104.26871	34.	104.75978
5.	104.01850	35.	104.83884
6.	104.71051	36.	104.91901
7.	104.26139	37.	104.97787
8.	104.73264	38.	101.41496
9.	105.20991	39.	101.45265
10.	105.21028	40.	101.47973
11.	105.65385	41.	101.49355
12.	106.10308	42.	101.50494
13.	106.53455	43.	101.41272
14.	104.54894	44.	101.42411
15.	104.96420	45.	101.43550
16.	105.37313	46.	101.44688
17.	105.41107	47.	101.45827
18.	105.77516	48.	101.46966
19.	105.40025	49.	101.48105
20.	105.70535	50.	97.78873
21.	106.01439	51.	97.80012
22.	106.06750	52.	97.81150
23.	106.34021	53.	97.82289
24.	106.61646	54.	97.83428
25.	106.87384	55.	97.84566
26.	103.93879	56.	97.85705
27.	104.17814	57.	97.86844
28.	104.40947	58.	97.87983
29.	104.53036	59.	97.89121
30.	104.71219	60.-63.	97.90260

SCHEDULE D

to

Lease between Portec Lease Corp.
as Lessor and

Richard B. Ogilvie, Trustee of the Property of the
Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor
as Lessee

BUILDER'S WARRANTY AGREEMENT

THIS AGREEMENT dated as of September 15, 1982 is between Portec Lease Corp., a Delaware corporation ("Lessor") and PORTEC, Inc., a Delaware corporation ("PORTEC"), and also runs to the benefit of Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, ("Lessee"),

W I T N E S S E T H:

WHEREAS, pursuant to Purchase Order Number 115 placed by Lessor with PORTEC and accepted by PORTEC, Lessor has agreed to purchase from PORTEC, and PORTEC has agreed to manufacture and sell to Lessor, certain railroad equipment, consisting of 210 cars ("Units") described as 100 ton, open top hopper cars, 4000 cu. ft. capacity to be built in accordance with specifications No. H-100-801112, revised 12/1/82 and the following drawings:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date of Revision</u>
4H-2045-0	03	11/03/82
4H-2045-1	Sheet 1 - Rev. 07	12/06/82
	Sheet 2 - Rev. 01	12/02/82
4H-2045-2	04	12/23/82
4H-2045-3	03	12/02/82
4H-2045-5	05	12/23/82
4H-2045-7	03	11/19/82
4H-2045-8	Sheet 1 - Rev. 04	12/15/82
	Sheet 2 - Rev. 05	12/15/82
4H-2045-14	Sheet 1 - Rev. 04	12/06/82
	Sheet 2 - Rev. 07	12/10/82
	Sheet 3 - Rev. 03	12/02/82

WHEREAS, the Lessor and PORTEC desire to establish all of Portec's warranties of every kind and nature, both express and implied, as to such Units within the confines of this document; and

WHEREAS, Lessor has advised that it intends to lease the Units to Lessee under terms authorizing Lessee to enforce said warranties;

NOW, THEREFORE, in consideration of the premises, PORTEC and the Lessor agree that the warranties from PORTEC to Lessor relating to the above described Units are as follows:

ITEM 1

PORTEC warrants (i) that each of the above described Units will be built in accordance with the Specifications above named and (ii) that each Unit will be free from defects in material and workmanship including patent and latent defects, under normal use and service; provided, however, that PORTEC's obligation under this paragraph shall be limited to making good at its plant (or, at the option of PORTEC, repair facilities designated by Lessor or by a contractor selected by PORTEC) any part or parts of any Unit as to which written notice of such defect has been given by Lessor or Lessee to PORTEC within one year after delivery of such Unit and which part or parts are returned within 180 days after such notice to PORTEC or to the aforesaid repair facilities designated by PORTEC in a reply to such notice, provided that PORTEC's examination shall disclose to its reasonable satisfaction such part or parts to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF PORTEC WITH RESPECT TO THE UNITS EXCEPT FOR ITS OBLIGATIONS SPECIFICALLY SET FORTH IN SAID PURCHASE ORDER. PORTEC neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of Units, except as aforesaid. PORTEC SHALL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES OF WHATEVER NATURE.

PORTEC further agrees that neither the inspection as provided in the aforesaid Purchase Order or in Lessor's lease of the Units to Lessee shall be deemed a waiver or modification by either Lessor or Lessee of any of their rights under this Item 1.

It is further understood and agreed that the word "designs" and the word "specialties" as used herein and in Item 2 shall be deemed to include articles, materials, systems, formulae and processes.

ITEM 2

PORTEC agrees to indemnify, protect and hold harmless Lessor and Lessee from and against any and all liability, claims, demands, costs,

charges and expenses, including royalty payments and reasonable attorney's fees, in any manner imposed upon or accruing against Lessor or Lessee, because of the use in or about the construction or operation of the Units as constructed by Portec, or any thereof, of any design, process, combination, article or material contained in such Units infringing or claimed to infringe on any patent or other right. PORTEC agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to Lessor and Lessee, without imposing any obligation on Lessor or Lessee to prosecute same, every claim, right and cause of action which PORTEC has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material used by PORTEC in or about the construction or operation of the Units, or any thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and PORTEC further agrees to execute and deliver to Lessor and Lessee all and every such further assurances as may be reasonably requested by Lessor and Lessee more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. Lessee, as a condition to its being a third-party beneficiary hereof, will give notice to PORTEC of any claim known to Lessee on the basis of which liability may be charged against PORTEC hereunder and PORTEC will give notice to Lessee and Lessor of any claim known to PORTEC, on the basis of which liability may be charged against Lessee or Lessor hereunder.

The parties hereto further agree that such warranties may be asserted and enforced, from time to time, by Lessee against PORTEC pursuant to a lease relating to the subject Units wherein Lessor is lessor and Lessee is lessee.

IN WITNESS WHEREOF, the parties have affixed their hands on the date first above written.

Portec Lease Corp.

PORTEC, Inc.

By _____
Vice President

By _____
Senior Vice President