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HENRY S. DRINKER
1904-1984

January 29, 1985 * 14563

No. 5-029A030

Date JAN. 29 1985 JAN 29 1985 - 10 15 AM

Fee \$ 20.00 INTERSTATE COMMERCE COMMISSION

Dear Mr. Bayne:

ICC Washington, D. C.

On behalf of The Philadelphia Saving Fund Society, I submit for filing and recording under 49 U.S.C. § 11303(a) and the regulations promulgated thereunder the enclosed executed counterparts of Security Agreement dated January 29, 1985 between TXL Astra Corporation VI, Debtor, and The Philadelphia Saving Fund Society, Secured Party, a primary document not previously filed with the Interstate Commerce Commission.

The parties to the enclosed document are:

The Philadelphia Saving Fund Society - Secured Party
1234 Market Street - 12th Floor
Philadelphia, Pennsylvania 19107

TXL ASTRA Corporation VI - Debtor
Suite 3800
One Embarcadero Center
San Francisco, California 94111

The said Security Agreement dated January 29, 1985 between TXL Astra Corporation VI, Debtor, and The Philadelphia Saving Fund Society, Secured Party, covers a loan secured by thirty-seven 2,000 H.P. Model GP 38-2 diesel electric locomotives identified by Missouri Pacific Railroad Company numbers 2074 through 2110, both inclusive (formerly MP 923-959; anticipated to be changed to MP 7074-7110), and seven 2,250 H.P. Model U-23-B diesel electric locomotives identified by Missouri Pacific Railroad Company numbers 4500 through 4506, both inclusive (formerly MP 668-674).

Please cross-index the Security Agreement under Recordation No. 6869-B.

Enclosed is a check in the amount of \$20 in payment of the recordation fee (\$10) and the cross-indexing fee (\$10).

Countersigned by [Signature]

JAN 29 10 09 AM '85
100 JH 1005
100 JH 1005

DRINKER BIDDLE & REATH

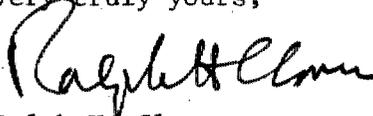
-2-

A short summary of the document to appear in the Index is as follows:

"Forty-four locomotives identified by Missouri Pacific numbers 2074-2110 (formerly MP 923-959; anticipated to be changed to MP 7074-7110) and 4500-4506 (formerly MP 668-674)"

Once the filing has been made, please return to bearer the stamped counterpart(s) not required for filing purposes, together with the fee receipt, and the letter from the Interstate Commerce Commission acknowledging the filing.

Very truly yours,



Ralph H. Clover

Mr. James H. Bayne
Acting Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Enclosures

BY HAND

Interstate Commerce Commission
Washington, D.C. 20423

1/29/85

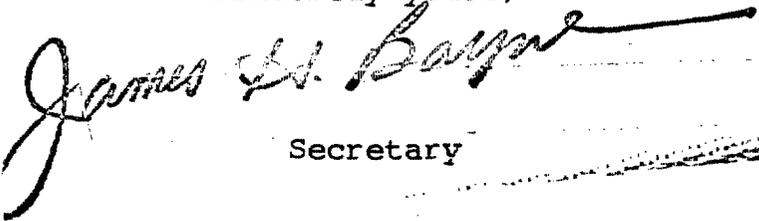
OFFICE OF THE SECRETARY

Ralph H. Clover
Drinker Biddle & Reath
Broad & Chestnut Streets
Phila. PA. 19107

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 1/29/85 at 10:15am and assigned re-
recording number (s). 14563

Sincerely yours,


Secretary

Enclosure(s)

14563

REGISTRATION NO. _____ Form 1425

JAN 29 1985 -10 15 AM

INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

Dated January *29*, 1985

between

TXL ASTRA CORPORATION VI

Debtor

and

THE PHILADELPHIA SAVING FUND SOCIETY

Secured Party

SECURITY AGREEMENT dated January 29, 1985, between TXL ASTRA CORPORATION VI, a California corporation (the "Company"), as debtor, and THE PHILADELPHIA SAVING FUND SOCIETY, as secured party ("Secured Party").

Preliminary Statement

Certain terms used in this Agreement and not elsewhere defined are defined in Article V.

The First National Leasing Company (the "Seller") is the owner of the 44 diesel electric locomotives (the "Locomotives") identified in Exhibit A to the Purchase Agreement hereinafter mentioned. The Seller leases the Locomotives to the Missouri Pacific Railroad Company (the "Lessee") pursuant to a lease of railroad equipment dated as of January 10, 1973 (the "Lease"), between the Seller and the Lessee. The term of the Lease expires December 30, 1988. The Lease provides that the Lessee has an option (the "Purchase Option") to purchase the Locomotives from the Seller on December 30, 1988, for a price equal to the then fair market value thereof, as determined in accordance with the Lease. The Lease also provides that the Lessee has an option (the "Renewal Option") to renew the Lease for a term of five years, expiring December 30, 1993, for a rental equal to the then fair market rental value thereof, as determined in accordance with the Lease. United States Trust Company of New York, as agent (the "Agent"), holds a security interest in the Locomotives as security for repayment of certain conditional sale indebtedness (the "Conditional Sale Indebtedness") incurred by the Seller in connection with its purchase of the Locomotives. The Conditional Sale Indebtedness will be amortized from rental payments under the Lease, so that upon the penultimate payment of rent under the Lease on June 30, 1988, the Conditional Sale Indebtedness will be fully repaid and the Agent's security interest in the Locomotives will be discharged.

The Seller and the Company have entered into an agreement for the purchase and sale of locomotives and assignment of lease dated as of January 3, 1985 (the "Purchase Agreement"), a copy of which is attached hereto as Exhibit 1, in which the Seller agrees to sell the Locomotives and assign the Lease to the Company and the Company agrees to purchase the Locomotives and the Lease from the Seller and to assume the Conditional Sale Indebtedness. The closing under the Purchase Agreement is to occur simultaneously with the execution of this Agreement.

At the Company's request and expense, International Capital Equipment Limited ("ICE") has executed and delivered to the Company an equipment purchase agreement (number 1501481) dated January 21, 1985 (the "Guarantee"), by which ICE has agreed, among other things, to purchase the Locomotives upon the maturity of the Note for an amount equal to \$5,125,000, or, if the Lessee exercises the Renewal Option, to purchase the Locomotives after the expiration of the renewal term for an amount equal to \$3,023,750, (or, in either case, a proportionately reduced amount if any of the Locomotives shall have suffered a Casualty Occurrence, as defined in Section 7 of the Lease. The Travelers Indemnity Company ("Travelers") has confirmed that the Guarantee is covered by Equipment Purchase Agreement Insurance Policy No. T-GLM-189T581-0-83 (the "Travelers Policy") issued by Travelers to ICE insuring the payment when due of all amounts required to be paid under the Guarantee.

J.S.


The purchase price payable by the Company under the Purchase Agreement is payable on the date of this Agreement. To provide funds with which to pay such purchase price, the Company has today issued and sold the Note to the Secured Party.

The Company is entering into this Agreement for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound.

Granting Clause

As security for the payment of the Note and any Renewal Note issued under Article VII and the performance of all its obligations hereunder and under the Note Agreement, the Company hereby grants to the Secured Party a security interest in the Purchase Agreement, the Guarantee, the Travelers Policy, (collectively, the "Purchase Documents"), the Locomotives, the Lease, and all proceeds of the foregoing property.

Nothing in this Agreement shall impose upon the Secured Party, or relieve the Company of, any obligation of the Company under any of the Purchase Documents or the Lease.

ARTICLE IParticular Covenants of The Company

SECTION 1.01. Warranty of Title. The Company hereby represents and warrants that the Purchase Documents are in full force and effect and warrants that (i) its right, title and interest in, and to, the Collateral are free and clear of all liens, charges and other encumbrances except Permitted Encumbrances and (ii) this Agreement creates a valid lien on the Company's rights in, and to, the Collateral, subject only to Permitted Encumbrances. Until payment in full of the Note and any Renewal Note and all of its other obligations secured hereby, the Company will warrant and defend its interest in, and to, the Collateral against the claims and demands of all persons and will maintain the security interest created under this Agreement. The Company has full power and lawful authority to grant the security interests granted by this Agreement.

SECTION 1.02. Protection of Collateral. The Company will from time to time execute and deliver all such supplements and amendments hereto and all such financing statements and continuation statements, and will take such other action, as the Secured Party reasonably requests and deems necessary or advisable to maintain or preserve the validity and perfection of the security interest created by this Agreement or to carry out more effectively the purposes hereof, or preserve and defend the Company's interest in and to the Collateral and the rights of the Secured Party therein against the claims of all persons and parties.

SECTION 1.03. Performance of Obligations. The Company will punctually perform and observe all of its obligations and agreements contained in each of the Purchase Documents and the Lease. The Company will notify the Secured Party of any default by any person under any of the Purchase Documents or under the Lease promptly after obtaining actual knowledge thereof.

SECTION 1.04. Negative Covenants. The Company will not:

(a) sell, lease, transfer, exchange or otherwise dispose of any of the Collateral;

(b) take or permit any action which would result in an Event of Default under subsection (d) or (e) of Section 4.01;

(c) claim any credit on, or make any deduction from, the principal or interest payable on the Note by reason of the payment of any taxes levied or assessed upon any of the Collateral; or

(d) engage in any business activity other than its ownership of the rights granted to it under the Purchase Agreement, its ownership of the Locomotives and its leasing thereof to the Lessee pursuant to the Lease, and other activities incidental to the transaction contemplated hereby and thereby.

SECTION 1.05. Payment of Taxes. The Company will pay or cause to be paid all taxes (including income, franchise and gross receipts taxes) which are at any time or from time to time levied upon or assessed against the Company. The foregoing sentence shall not prevent the Company from contesting any such tax by appropriate Proceedings so long as (a) such Proceedings shall suspend the collection thereof, (b) no part of the Collateral would be subject to sale, forfeiture or diminution and (c) the Company shall have furnished such security as may be required in the Proceedings or reasonably requested by the Secured Party. The Company will conduct such contests in good faith and with due diligence and will, promptly after the final determination of each such contest, pay all amounts which shall be determined to be payable in respect thereof.

SECTION 1.06. Casualty Insurance. The Company will obtain and maintain at its expense a policy of insurance (the "Casualty Policy") issued by American Home Assurance Company ^{J.S.} or another carrier acceptable to the Secured Party, insuring the Locomotives against such hazards as the Secured Party shall require, with provisions satisfactory to the Secured Party under which all loss shall be payable directly to the Secured Party, under which the Casualty Policy will not expire or be cancelled as to the Secured Party without 30 days' written notice to the Secured Party from the insurer, and under which violation of any term or condition of the Casualty Policy by any party other than the Secured Party will not affect the insurer's obligation to pay loss to the Secured Party. The Casual Policy shall be in an amount with respect to each Locomotive sufficient to pay the amount by which (1) the amount of the prepayment required to be made by Section 3.01 in the event of a Casualty Occurrence with respect to such Locomotive exceeds (2) the amount required to be paid by the Lessee under Section 7 of the Lease in consequence of a Casualty Occurrence with respect to such Locomotive.

SECTION 1.07. Assignment of Rights under Purchase Documents and Lease. (a) Confirmatory of the security interest herein granted in the Purchase Documents and in the Lease, the Company hereby irrevocably assigns and transfers to the Secured Party, subject to the provisions of this Agreement, as security for the payment of all amounts payable under or in respect of the Note, any Renewal Note, and this Agreement, and as security for compliance with the provisions hereof and thereof, all of its estate, right, title, interest, claim and demand in, to and under the Purchase Documents and the Lease, including (1) the right to claim, demand, receive, and receipt for all moneys from time to time payable to or receivable by the Company under the Purchase Documents and the Lease (said sums being herein called the "Moneys"), subject to the Agent's prior right to receive Moneys payable by the Lessee under the Lease until the discharge of the Conditional Sale Indebtedness, and payment by the Lessee to the Seller as the Company's subrogee and (2) all powers, rights, and privileges of the Company (including the right to give or withhold consents) under, and to enforce, the Purchase Documents and the Lease. So long as no Default or Event of Default shall have occurred, the Company shall be entitled to exercise all of its rights under the Purchase Documents and the Lease, (1) except the right to receive Moneys that become payable under the Purchase Documents or the Lease, other than indemnity or reimbursement payments made by the Lessee to the Company under the Lease, (2) except to the extent such exercise would violate any provision of this Agreement, and (3) except as provided in subsection (b). Upon the occurrence of a Default or Event of Default under this Agreement, the Company shall have no further rights under the Purchase Documents or the Lease (except to receive copies of all notices given and received thereunder) until the termination of this Agreement as provided herein, whereupon all rights granted hereunder to the Secured Party shall terminate and revert to the Company. The obligations of the Company, however, owing to any party under the Purchase Documents or the Lease shall continue to be owing to such party by the Company notwithstanding this Agreement or any Event of Default or any enforcement Proceedings hereunder.

(b) Whether or not a Default or Event of Default shall have occurred, the Company will not, without the prior written consent of the Secured Party --

(1) agree to any amendment of, or waive any right or grant any indulgence under, any of the Purchase Documents or the Lease;

(2) agree with the Lessee upon a purchase price for the Locomotives in connection with the Lessee's exercise of the Purchase Option unless (A) the amount payable by the Lessee is at least equal to the unpaid principal of and interest on the Note at its maturity, or (B) ICE shall have approved the purchase price in advance by a written instrument, in form and substance satisfactory to the Secured Party, delivered to and received by the Secured Party;

(3) agree with the Lessee upon the rent to be paid by the Lessee during the renewal term upon the Lessee's exercise of the Renewal Option; or

(4) designate an appraiser for the purpose of determining the fair market value or fair market rental of the Locomotives in connection with the Lessee's exercise of the Purchase Option or the Renewal Option unless, in the case of the Purchase Option, ICE shall have approved the appraiser in advance by a written instrument, in form and substance satisfactory to the Secured Party, delivered to and received by the Secured Party.

ARTICLE II

Possession, Use and Transfer

SECTION 2.01. Collection of Moneys. Until the Conditional Sale Indebtedness shall have been discharged, the Secured Party shall have the right to receive directly from the Agent all Moneys which the Agent otherwise would be required to remit to the Company. The Secured Party shall apply such Moneys upon receipt to the payment of any amount which shall then be due under the Note or this Agreement. Except as provided in the first sentence of this Section, if the Renewal Note shall have been issued to the Secured Party, the Secured Party may demand payment or delivery of and shall receive and collect all Moneys and other property otherwise payable to or receivable by the Company pursuant to any Purchase Document or the Lease. The Secured Party shall hold all such Moneys and property received by it as part of the Collateral, and shall apply it as provided in this Agreement. If any default occurs in the making of any payment or performance under any Purchase Document or the Lease, the Secured Party may take such action as it shall have power to take and as may be appropriate to enforce such payment or performance, including the institution and prosecution of appropriate Proceedings. Any such action shall be without prejudice to any right to claim a Default or Event of Default under this Agreement and to proceed thereafter as provided in Article IV.

SECTION 2.02. Transfer of Collateral. So long as the Note is outstanding, the Company will not sell, dispose of, encumber or otherwise transfer the Collateral or any part thereof or interest therein except with the written consent of the Secured Party.

SECTION 2.03. The Locomotives. The Company will maintain the Locomotives in good condition and repair and in conformity with the requirements of the Guarantee. If the Renewal Option is exercised and the Renewal Note is issued, during the term of the Renewal Option the Company will maintain insurance on the Locomotives (in lieu of that required by Section 1.06) which complies with the requirements of Section 1.06, except that the amount of such insurance shall not be less than the unpaid principal balance of the Renewal Note.

ARTICLE III

Application of Moneys; Prepayment

SECTION 3.01. Casualty and Condemnation. (a) If any Locomotive shall suffer a Casualty Occurrence, the Company shall make a prepayment on account of the Note or the Renewal Note, as the case may be, in an amount which bears to the original principal amount of the Note or the Renewal Note, as the case may be, the same proportion as the portion of the purchase price under the Guarantee allocated to that Locomotive (determined by reference to the attachment to Part II, Item 2, of the Guarantee) bears to the total purchase price under the Guarantee (determined without regard to paragraph 2 of the Amendment to the Guarantee).

(b) All amounts received by the Secured Party in consequence of a Casualty Occurrence from the Lessee under the Lease, from the insurer under the Casualty Policy, or from any other insurer shall be applied to the prepayment required by subsection (a), and the balance, if any, shall be applied to repay any interest accrued and unpaid under the Note or the Renewal Note, as the case may be. Any balance remaining after such application shall be held as provided in Section 3.03.

SECTION 3.02. Prepayment in General. The Note may be prepaid only to the extent expressly permitted by Section 3.01.

SECTION 3.03. Payments under the Purchase Documents. Except as provided in Section 3.01, all Moneys received by the Secured Party under any of the Purchase Docu-

ments shall be held by the Secured Party until the maturity of the Note, shall be part of the Collateral, and shall be applied at maturity to the payment of the Note and of all other obligations of the Company hereunder. Pending such application, all such Moneys shall be invested in time deposits of the Secured Party, or of a banking or savings institution organized under the laws of the United State or a state thereof, and acceptable to the Company and the Secured Party. Upon final discharge of this Agreement under Section 6.01, any Moneys remaining in the Secured Party's possession shall be remitted to or on the order of the Company.

ARTICLE IV

Events of Default and Remedies

SECTION 4.01. Events of Default. Any of the following occurrences or acts shall constitute an Event of Default under this Agreement:

(a) If default shall be made in the payment of any principal of or interest on the Note or the Renewal Note when and as the same shall become payable, whether at maturity or by acceleration or as part of any prepayment or otherwise.

(b) If there shall be default in the due observance of any provision of Section 1.04 hereof; or

(c) If there shall be default in the due observance or performance of any other provision of this Agreement, and such default shall have continued for a period of 20 days after written notice thereof shall have been given to the Company by the Secured Party; or

(d) If any of the Purchase Documents or the Lease shall be amended, hypothecated, subordinated, terminated or discharged or if any person shall be released from any of its covenants or obligations under any of the Purchase Documents or the Lease, in each case except to the extent that the same shall be caused by, or shall occur with the express written consent of, the Secured Party; or

(e) If any lien, charge, security interest, mortgage, pledge or other encumbrance shall be created on, or extend to or otherwise arise upon

or burden the Collateral or any part thereof or any interest therein or the revenues, rents, issues or profits thereof, other than Permitted Encumbrances; or

(f) If any representation or warranty of the Company made in this Agreement, in the Note Agreement, or in any certificate or other writing delivered pursuant hereto or thereto, shall prove to be incorrect in any material respect as of the time when the same shall have been made; or

(g) If any party to any of the Purchase Documents or the Lease shall fail to perform any of its obligations thereunder; or

(h) If the Company shall file a petition in bankruptcy or for reorganization or for an arrangement or any composition, readjustment, liquidation, dissolution or similar relief pursuant to the Bankruptcy Code or under any similar present or future federal or state law, or shall be adjudicated a bankrupt; or

(i) If a petition or answer shall be filed proposing the adjudication of the Company as a bankrupt or its reorganization or arrangement, or any composition, readjustment, liquidation, dissolution or similar relief with respect to it pursuant to the Bankruptcy Code or any similar present or future federal or state law, and the Company shall consent to the filing thereof, or an order for relief or similar order shall be entered in the proceeding, or such petition or answer shall not be discharged or denied within 30 days after the filing thereof; or

(j) If a receiver, trustee or liquidator (or other similar official) of the Company, or of all or substantially all of the assets of the Company or of the Collateral or any portion thereof shall be appointed and shall not be discharged within 30 days thereafter, or if the Company shall consent to or acquiesce in such appointment.

SECTION 4.02. Remedies. If an Event of Default shall have occurred and be continuing, the Secured Party may do one or more of the following:

(a) give notice to the Company declaring the entire unpaid principal amount of the Note or the Renewal Note, as the case may be, together with all accrued interest and other sums then owing under this Agreement, to be forthwith payable, and demanding that the same be paid, and thereupon all such amounts shall be forthwith payable, together with all costs and expenses of collection, notwithstanding any contrary provision contained in this Agreement, the Note, or the Renewal Note but subject to the terms of Section 9.01;

(b) institute Proceedings for the collection of all amounts then payable on the Note or the Renewal Note or under this Agreement, whether by declaration or otherwise, enforce any judgment obtained, and collect moneys adjudged due from the Collateral;

(c) collect from any party obligated on any of the Collateral all amounts that become payable thereunder;

(d) sell the Collateral or any portion thereof or rights or interest therein, at one or more public or private sales called and conducted in any manner permitted by law;

(e) institute Proceedings from time to time for the complete or partial foreclosure of this Agreement;

(f) take any other appropriate action to protect and enforce the rights and remedies of the Secured Party hereunder, or under or in respect of any of the Purchase Documents, or otherwise; and

(g) exercise all the rights and remedies provided to a secured party by the Uniform Commercial Code with respect to all parts of the Collateral which are governed by the Uniform Commercial Code.

SECTION 4.03. Sale of Collateral. (a) The power to effect any sale of the Collateral shall not be exhausted by any one or more sales as to any portion of the Collateral remaining unsold, but shall continue unimpaired until the entire Collateral shall have been sold or all amounts payable on the Note or the Renewal Note and under this Agreement shall have been paid. The Secured Party may from time to time postpone any sale by announcement made at the time and place of such sale.

(b) The Secured Party may bid for and acquire any portion of the Collateral in connection with a sale thereof, and may pay all or part of the purchase price by crediting against amounts owing on the Note or the Renewal Note or other amounts secured by this Agreement, all or part of the net proceeds of such sale after deducting the costs, charges and expenses incurred by the Secured Party in connection with such sale. The Note or the Renewal Note need not be produced in order to complete any such sale, or in order to cause there to be credited thereon such net proceeds. The Secured Party may hold, lease, operate, manage or otherwise deal with any property so acquired in any manner permitted by law.

(c) The Secured Party shall execute and deliver an appropriate instrument of conveyance transferring its interest in any portion of the Collateral in connection with a sale thereof. In addition, the Secured Party is hereby irrevocably appointed the agent and attorney-in-fact of the Company to transfer and convey its interest in any portion of the Collateral in connection with a sale thereof, and to take all action necessary to effect such sale. No purchaser or transferee at such a sale shall be bound to ascertain the Secured Party's authority, inquire into the satisfaction of any conditions precedent or see to the application of any moneys.

(d) If an Event of Default occurs, if notice of intended sale or other disposition of Collateral is required under the Uniform Commercial Code, the Company agrees that notice mailed to it as provided in Section 9.02 at least five days before such sale or disposition shall constitute reasonable notice.

SECTION 4.04. Action on the Notes. The Secured Party's right to seek and recover judgment on the Note or the Renewal Note or under this Agreement shall not be affected by seeking, obtaining or application of any other relief under or with respect to this Agreement. Neither the security interest created by this Agreement nor any rights or remedies of the Secured Party shall be impaired by the recovery of any judgment by the Secured Party against the Company or by the levy of an execution under such judgment upon any portion of the Collateral.

SECTION 4.05. Distribution of Collateral. Upon enforcement of this Agreement, all moneys constituting a part of or received on account of the Collateral shall be applied from time to time by the Secured Party as follows:

First: To the payment of all costs, expenses, liabilities and compensation of the Secured Party (including reasonable fees and expenses of its agents and counsel) incurred or accrued in connection with any Proceedings brought by the Secured Party or in connection with the maintenance, sale or other disposition of the Collateral.

Second: To the payment of all amounts of unpaid interest then due and payable on the Note or the Renewal Note, as the case may be.

Third: To the payment of all amounts of unpaid principal of the Note or the Renewal Note, as the case may be, then due and payable.

Fourth: To the payment of all other sums secured by this Agreement.

Fifth: To the payment of any surplus to the Company or any other person legally entitled thereto.

SECTION 4.06. Appointment of Receiver. If an Event of Default shall be continuing, the Company will consent to the appointment of one or more receivers of all or part of the Collateral upon the request of the Secured Party.

SECTION 4.07. Rights Cumulative. All rights and remedies from time to time conferred upon or reserved to the Secured Party are cumulative, and none is intended to be exclusive of another. No delay or omission in insisting upon the strict observance or performance of any provision of this Agreement, or to exercise any right or remedy, shall be construed as a waiver or relinquishment of such provision, nor shall it impair such right or remedy. Every right and remedy may be exercised from time to time and as often as deemed expedient.

ARTICLE V

Defined Terms

SECTION 5.01. Definitions. When used in this Agreement, each term defined in this Article V shall be the meaning indicated:

"Agent" - as defined in the Preliminary Statement.

"Casualty Occurrence" - as defined in Section 7 of the Lease.

"Casualty Policy" - as defined in Section 1.06.

"Company" - as defined in the introductory paragraph of this Agreement.

"Collateral" - all money, instruments and other property subject or intended to be subject to the security interest created by this Agreement as of any particular time, including, without limitation, all property and interests mentioned in the Granting Clause of this Agreement and elsewhere herein.

"Event of Default" - as defined in Section 4.01.

"Guarantee" - as defined in the Preliminary Statement.

"ICE" - as defined in the Preliminary Statement.

"Lease" - as defined in the Preliminary Statement.

"Lessee" - as defined in the Preliminary Statement.

"Locomotive" - as defined in the Preliminary Statement.

"Moneys" - as defined in Section 1.07.

"Note" - individually and collectively, the Company's 13.5% Secured Note Due March 20, 1989, payable to the Secured Party, and any Note or Notes issued in exchange for or in lieu of or on transfer of any Note, as provided in the Note Agreement.

"Note Agreement" - the Note Agreement, dated January 29, 1985, between the Company and the Secured Party, which provides for the purchase and sale of the Note.

"Permitted Bank" - a banking institution organized under the laws of the United States or any state thereof, having combined capital, surplus and undivided profits as of the date of its most recent report of condition equal to or greater than that of the Secured Party or \$1,000,000,000, whichever is less, the senior long-term unsecured debt of

which (or of the holding company of which) is rated at least "A" by Moody's Investors Service, Inc. or Standard & Poors Corporation and the commercial paper of which (or of the holding company of which) is rated at least "P-1" by Moody's Investors Service, Inc. or at least "A-1" by Standard & Poors Corporation.

"Permitted Encumbrances" - with respect to the Collateral: (i) any lien thereon for any governmental charge or for work or service performed or materials furnished, which secures amounts which are not due and payable or which are not delinquent; (ii) in the case of the Locomotives, the security interest securing the Conditional Sale Indebtedness, but only until June 30, 1988; (iii) in the case of the Locomotives, the interest of the Lessee under the Lease, but only until December 30, 1988, or thereafter if the Lessee exercises the Purchase Option or the Renewal Option; and (iv) this Agreement.

"Proceeding" - any suit in equity, action at law or other judicial or administrative proceeding.

"Purchase Agreement" - as defined in the Preliminary Statement.

"Purchase Documents" - as defined in the Granting Clause.

"Purchase Option" - as defined in the Preliminary Statement.

"Renewal Note" - as defined in Article VII.

"Renewal Option" - as defined in the Preliminary Statement.

"Secured Party" - as defined in the introductory paragraph of this Agreement.

"Seller" - as defined in the Preliminary Statement.

"Transaction Documents" - as defined in Section 8.01.

"Travelers" and "Travelers Policy" - as defined in the Preliminary Statement.

ARTICLE VIDischarge of Agreement

SECTION 6.01. Final Discharge. This Agreement and all agreements contained herein shall cease and terminate when all principal, interest and other amounts payable under or in respect of or secured pursuant to the terms of this Agreement shall have been paid in full, whether at the end of the term of the Note or the Renewal Note, by acceleration, by prepayment or otherwise.

SECTION 6.02. Delivery of Discharge. Upon the termination of this Agreement, the Secured Party shall execute and deliver such instruments as the Company shall furnish to the Secured Party and which shall be reasonably required to satisfy and discharge the security interest by this Agreement. The Secured Party shall then transfer the Collateral to the Company or any other person entitled thereto.

ARTICLE VIIThe Renewal Note

SECTION 7.01. The Renewal Note. If the Lessee exercises the Renewal Option, the Secured Party will at the Company's option (exercisable by not less than 30 days' prior written notice) purchase from the Company on the date of maturity of the Note the Company's Secured Note Due March 20, 1994 (the "Renewal Note"). The Renewal Note shall be in substantially the form of Exhibit 2, and shall be in a principal amount equal to the unpaid principal of and interest on the Note at the maturity of the Note. The Renewal Note shall bear interest, payable quarterly in arrears, at a rate designated by the Secured Party, based upon market conditions then obtaining in the Secured Party's sole judgment, which shall be not less than 13.5 percent and not more than 17 percent, except that if the Secured Party determines that under then market conditions, interest on the Renewal Note should be in excess of 17 percent and if the rental payable by the Lessee during the renewal term will provide funds sufficient to pay interest on the Renewal Note at a rate greater than 17 percent and to amortize the principal amount of the Renewal Note to its maturity in accordance with the next sentence, the Renewal Note shall bear interest at such greater rate, but not more than 18 percent. The Renewal Note shall provide for the payment of principal in equal quarterly installments sufficient to reduce the principal

amount of the Renewal Note at its maturity to the amount which bears to \$3,023,750 the same ratio which the original principal amount of the Renewal Note bears to \$5,125,000. The purchase price for the Renewal Note shall be equal to the principal amount thereof and shall be payable by surrender of the Note.

SECTION 7.02. Conditions Precedent. The Secured Party's obligation to purchase the Renewal Note is subject to the conditions precedent that on the date of maturity of the Note (1) no Default or Event of Default shall have occurred and be continuing, (2) the representations and warranties of the Company in this Agreement and the Note shall be true and correct, and (3) the Company if requested by the Secured Party shall have used its best efforts to obtain financing from another source with which to make all payments required to be made under the Note at its maturity.

SECTION 7.03. Status of Renewal Note. The Company's obligations under the Renewal Note shall be secured by this Agreement. The Renewal Note shall be treated as a "Note" for purposes of Section 6 of the Note Agreement.

ARTICLE VIII

Covenants of the Secured Party

SECTION 8.01. Notwithstanding anything contained in this Agreement, the Note, the Renewal Note or the Note Agreement, or in any other agreement, certificate, instrument or document executed or delivered in connection herewith or therewith (this Agreement, the Note, the Renewal Note, the Note Agreement and any such other agreement, certificate, instrument or document being collectively referred to hereinafter as the "Transaction Documents"), the Secured Party hereby covenants as follows:

(a) In no event will the Secured Party send or deliver a Notice of Delivery (as defined in the Guarantee) to ICE pursuant to the Guarantee earlier than 195 days prior to the earliest Delivery Date (as defined in the Guarantee) without the Company's prior written consent.

(b) If, no later than 195 days prior to the earliest Delivery Date under the Guarantee, the Company either (1) delivers to the Secured Party an irrevocable letter of credit in form and substance satisfactory to the Secured Party, issued by a Permitted Bank, covering all installments of interest and principal thereafter to become due under the

Note, or (2) provides other credit support satisfactory to the Secured Party covering all installments of interest and principal thereafter to become due under the Note upon the maturity thereof, then the Secured Party (i) will not send or deliver a Notice of Delivery to ICE under the Guarantee and (ii) will terminate and release its security interest in the Collateral and whatever other interests in the Locomotives, the Lease and the Purchase Agreement that it may have acquired hereunder.

(c) The Company shall be entitled to all amounts, if any, received by the Secured Party from ICE under the Guarantee in excess of that which is necessary to repay the Note and pay all interest thereon and all other amounts payable to the Secured Party hereunder, under the Note or under the Note Agreement, and the Secured Party shall deliver such amounts received from ICE, if any, to the Company, promptly after all the Company's obligations to the Secured Party hereunder and under the Note and the Note Agreement have been paid in full.

(d) If the Secured Party gives ICE a Notice of Delivery under the Guarantee, the Secured Party will not prevent the Lessee or the Company from, or otherwise interfere with any such party in, delivering the Locomotives to ICE.

ARTICLE IX

Miscellaneous

SECTION 9.01. Nonrecourse Obligations. Any provision in any of the Transaction Documents to the contrary notwithstanding, no recourse shall be had against the Company, whether in its personal or corporate capacity or otherwise, or against any incorporator, shareholder, officer or director of the Company, under, or in respect of, any of the Transaction Documents, or for any obligation, liability or breach arising under, in connection with or in respect of, any of the Transaction Documents. It is expressly understood that all such obligations and liabilities are nonrecourse obligations and liabilities enforceable only against the Collateral or, in the case of covenants and agreements, by injunction or other equitable remedies.

SECTION 9.02. Notices. All notices and demands hereunder shall be in writing and shall be deemed to have been given when actually received and receipted for, or three days after the date of mailing by registered or certified mail, return receipt requested, postage prepaid, and

addressed in each case as follows: (a) if to the Secured Party at 1234 Market Street, 12th Floor, Philadelphia, Pennsylvania 19107, Attention: Securities Investment Department, or (b) if to the Company, at One Embarcadero Center, Suite 3800, San Francisco, California 94111, Attention: Vice President and General Counsel. Either party may change its address for notices hereunder by giving notice of such change to the other party in accordance with the provisions of this Section 9.02.

SECTION 9.03. Powers and Agencies. Whenever in this Agreement the Secured Party is granted the power of attorney or is appointed the agent and attorney-in-fact with respect to any person, such grant or appointment is irrevocable and coupled with an interest. The Secured Party shall have full power of substitution and delegation in respect of all such grants and appointments.

SECTION 9.04. Separability. No provision hereof, or of the Note or the Renewal Note, shall require the payment or permit the collection of interest in excess of the maximum permitted by applicable law, any contrary provision herein, or in the Note or the Renewal Note notwithstanding. Any provision hereof, or of the Note, which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, or of the Note or the Renewal Note, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by law, the parties hereto hereby waive any provision of law which renders any such provision prohibited or unenforceable in any respect.

SECTION 9.05. Binding Effect. All provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns of the parties hereto.

SECTION 9.06. Amendment and Waiver. The provisions of this Agreement may not be changed orally, but only by an instrument signed by the Company and the Secured Party. No requirement of this Agreement may be waived at any time except by an instrument signed by the Secured Party, nor shall any waiver be deemed a waiver of any subsequent breach or Default.

SECTION 9.07. Counterpart Execution; Construction; Governing Law. The section and article headings herein are

for convenience of reference only, and shall not limit or otherwise affect the meaning hereof. This Agreement may be executed in several counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same Agreement. This Agreement shall be governed by and construed in accordance with the laws of Pennsylvania (without giving effect to principles relating to conflict of laws).

IN WITNESS WHEREOF, the Company and the Secured Party have caused this Agreement to be executed, all as of the day and year first above written.

TXL ASTRA CORPORATION VI

By Jay Selons
Title: Vice President

THE PHILADELPHIA SAVING FUND
SOCIETY

By Marian E. Bray Cirello
Marian E. Bray Cirello
Assistant Vice President

Commonwealth of Pennsylvania)
) ss.
County of Philadelphia)

On January 24, 1985, before me the undersigned, a Notary Public for the Commonwealth of Pennsylvania, personally appeared MARION E Bray Cizello proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.

Marion E Bray Cizello

Witness my hand and official seal.

Signature: Patricia A. Poochigian

Printed Name: PATRICIA A. POOCHIGIAN
PATRICIA A. POOCHIGIAN

My Commission Expires Notary Public; Phila., Phila. Co.
~~My Commission Expires April 21, 1986~~

State of California)
) ss.
County of San Francisco)

On January 22, 1985, before me the undersigned, a Notary Public for the State of California, personally appeared Jay Stevens, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.

Jay Stevens
Jay Stevens

Witness my hand and official seal.

Signature: Jill K. Lopes

Printed Name: Jill K. Lopes

My Commission Expires: Oct. 2, 1987

EXHIBIT 1 TO SECURITY AGREEMENT

[Purchase Agreement]

**AGREEMENT
FOR THE
PURCHASE AND SALE
OF
LOCOMOTIVES AND ASSIGNMENT OF LEASE**

Dated as of January 3, 1985

by and among

TXL ASTRA CORPORATION VI,

as Purchaser,

THE FIRST NATIONAL LEASING COMPANY,

as Seller,

and

CENTERRE BANK NATIONAL ASSOCIATION

and

COMMERCE BANK OF ST. LOUIS COUNTY,

as Guarantors

FORTY-FOUR LOCOMOTIVES

Leased

to

MISSOURI PACIFIC RAILROAD COMPANY

**AGREEMENT
FOR THE
PURCHASE AND SALE
OF
LOCOMOTIVES AND ASSIGNMENT OF LEASE**

THIS AGREEMENT FOR THE PURCHASE AND SALE OF LOCOMOTIVES AND ASSIGNMENT OF LEASE (the "Agreement") is entered into as of January 3, 1985 by and among THE FIRST NATIONAL LEASING COMPANY, a Missouri general partnership ("Seller"), TXL ASTRA CORPORATION VI, a California corporation ("Purchaser"), CENTERRE BANK NATIONAL ASSOCIATION ("Centerre") and COMMERCE BANK OF ST. LOUIS COUNTY ("Commerce Bank," and, together with Centerre, the "Guarantors").

RECITALS

WHEREAS Seller is a Missouri general partnership consisting of two partners, one of which is a grantor trust having a 90% interest in Seller, the grantors of which are Centerre and First of St. Louis Leasing Corporation No. 1, and the other of which is a grantor trust having a 10% interest in Seller, the grantor of which is Commerce Bank;

WHEREAS Seller purchased the 44 diesel electric locomotives described in Exhibit A hereto (the "Locomotives") from the manufacturers thereof (the "Manufacturers") pursuant to those two Conditional Sale Agreements dated as of January 10, 1973 (the "Conditional Sale Agreements") each by and among the Seller, as vendee, the Missouri Pacific Railroad Company (the "Lessee"), as guarantor, and one of the two Manufacturers, copies of which are attached hereto as Exhibits B-1 and B-2 respectively;

WHEREAS pursuant to the terms of the Conditional Sale Agreements, the Seller incurred certain conditional sale indebtedness (the "CSA Indebtedness") in the amount of approximately 65.92% of the original purchase price of the Locomotives, and as security for repayment of the CSA Indebtedness and satisfaction of all of the Seller's other obligations under the Conditional Sale Agreements, the Manufacturers, under the Conditional Sale Agreements, retained security title in the Locomotives;

WHEREAS the Manufacturers, pursuant to those two Agreements and Assignments dated as of January 10, 1973 (the "Agreements and Assignments") each by and between one of the Manufacturers and the United States Trust Company of New York, in its capacity as agent for several institutional investors (the "Agent"), copies of which are attached hereto as Exhibits C-1 and C-2 respectively, assigned all of their respective rights under the Conditional Sale Agreements to the Agent, including, but not limited to, security title in the Locomotives and the right to receive payments of CSA Indebtedness;

WHEREAS pursuant to the provisions of that certain non-cancellable, "hell-or-high-water," net Lease of Railroad Equipment dated as of January 10, 1973 (the "Lease") by and between the Lessee and Seller, a copy of which is attached hereto as Exhibit D, Seller leased the Locomotives to the Lessee for a term of approximately 15 1/2 years, expiring on December 30, 1988;

WHEREAS the CSA Indebtedness will be amortized from rental payments under the Lease, so that upon payment of rent under the Lease on June 30, 1988, the CSA Indebtedness, together with all accrued interest thereon, will be fully repaid;

WHEREAS Seller desires to sell the Locomotives to Purchaser, and Purchaser desires to purchase the Locomotives from Seller, all subject to the rights and interests of the Lessee and the Agent;

WHEREAS Seller and Purchaser also desire that Purchaser assume all of Seller's obligations for, under and in respect of the CSA Indebtedness;

WHEREAS Seller also desires to assign to Purchaser, and Purchaser desires to acquire from Seller, all of Seller's rights, title and interests in, to and under the Lease; and

WHEREAS the Guarantors, are willing to guarantee performance of all of the obligations of Seller hereunder.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Recitals and Exhibits

1.1 The foregoing Recitals and Exhibits A, B-1, B-2, C-1, C-2, D, E, F, G, H and I attached hereto are, by this reference, incorporated herein as though set out in full.

2. Sale and Delivery of the Equipment

2.1 Subject to the terms and conditions set forth herein and the rights and interests of the Lessee and of the Agent as secured party, on January 15, 1985, or such other date as the parties hereto may select (the "Closing Date"), Seller hereby agrees to sell the Locomotives to Purchaser, and Purchaser hereby agrees to purchase the Locomotives from Seller.

2.2 Subject to the terms and conditions set forth herein, Purchaser hereby agrees to accept the Locomotives on the Closing Date on an "as is, where is" basis. Acceptance shall be conclusively evidenced by Purchaser's acceptance from Seller of a duly executed bill of sale in the form set forth in Exhibit E hereto (the "Bill of Sale"). Seller shall have no obligation or duty to deliver any of the Locomotives to any location or locations.

3. Assignment of Lease

3.1 Subject to the terms and conditions set forth herein and, as set forth in the Lease, the rights of the Agent under the Conditional Sale Agreements, as assigned by the Agreements and Assignments, on the Closing Date, Seller hereby agrees to assign, transfer, sell and set over to Purchaser all of Seller's rights, title and interests in, to and under the Lease, including, but not limited to, the right to receive all payments of rent thereunder, and Purchaser hereby agrees to accept such assignment of the Lease. Seller agrees to promptly deliver to Purchaser any funds, notices or other materials received on or after the Closing Date to which, in accordance with the terms of this Agreement, or as assignee of Seller under the Lease, Purchaser is entitled.

3.2 Seller shall be subrogated to all of Purchaser's rights, as Seller's assignee, under the Lease against the Lessee with respect to any breach by the Lessee of, or the failure of the Lessee to fulfill, any of its obligations as lessee under the Lease, if such breach or failure occurs on or prior to the Closing Date and if, and to the extent, such breach or failure results in any payment by Seller to Purchaser with respect to any liability hereunder, or under any agreement, document or instrument entered into or delivered by Seller in connection herewith.

4. Assumption of CSA Indebtedness

4.1 Subject to the terms and conditions set forth herein, on the Closing Date, Purchaser hereby agrees to assume all of Seller's liabilities and obligations under the Conditional Sale Agreements, including, but not limited to, Seller's liabilities and obligations in respect of the then outstanding CSA Indebtedness, and Seller hereby agrees to assign, transfer, sell and set over to Purchaser all of Seller's rights, title and interests in, to and under the Conditional Sale Agreements, including, but not limited to, all such rights, title and interests in respect to the CSA Indebtedness. Notwithstanding the assumption by Purchaser of Seller's obligations and liabilities under the Conditional Sale Agreements, Seller, as provided in Article 15 of the Conditional Sale Agreements, shall remain liable to the Agent for all of Seller's obligations thereunder. Such assumption by Purchaser shall be conclusively evidenced by Purchaser's delivery of a duly executed assumption of liabilities in the form set forth in Exhibit F hereto (the "Assumption of CSA Indebtedness"). Seller agrees to promptly deliver to Purchaser any funds, notices or other materials received on or after the Closing Date to which, in accordance with the terms of this Agreement or as assignee of Seller under the Conditional Sale Agreements, Purchaser is entitled.

5. Purchase Price

5.1 The total purchase price for the Locomotives, the assignment of the Lease and the assumption of the CSA Indebtedness shall be \$5,242,701.45 (the "Purchase Price"), payable on the Closing Date. The Purchase Price shall consist of (a) an assumption of the outstanding \$2,392,701.45 of CSA Indebtedness and (b) \$2,850,000.00 in cash as consideration for the Locomotives and the assignment of the Lease, of which 88% shall be allocated to the Model GP 38-2 Locomotives and the Lease with respect thereto and 12% shall be allocated to the Model U-23-B Locomotives and the Lease with respect thereto. The allocation of the Purchase Price to each Locomotive is set forth in Exhibit A hereto.

5.2 Upon payment of the Purchase Price and delivery of the Assumption of CSA Indebtedness, Seller shall deliver to Purchaser the Bill of Sale, and an assignment of the Lease in the form set forth in Exhibit G hereto (the "Assignment").

5.3 Payment of the cash portion of the Purchase Price shall be made in immediately available funds, in St. Louis, Missouri, no later than 1:00 p.m. C.S.T. on the Closing Date.

5.4 Purchaser and Seller agree that payment of any sales or other taxes, levies or charges imposed by the state of Missouri upon the sale of the Locomotives from Seller to Purchaser as contemplated hereby shall be paid by, and be the responsibility of, Seller; any sales or other taxes, levies or charges imposed by any other jurisdiction upon the sale of the Locomotives from Seller to Purchaser as contemplated hereby shall be paid by, and be the responsibility of, Purchaser.

6. Representations, Warranties and Covenants

6.1 As of the date hereof, Seller and the Guarantors each hereby represents, warrants and covenants as follows:

a. Neither the Lease, the Conditional Sale Agreements nor any other agreement, instrument, certificate or document entered into or executed in connection therewith by Seller has been amended or modified, and neither Seller nor any party acting on behalf of, for the benefit of or as trustee for Seller, has waived any of its rights thereunder or otherwise consented to any action or inaction thereunder by the Lessee, the Agent or any other party, as the case may be, that would have been inconsistent with the terms of the Lease, the Conditional Sale Agreements or any such other agreement, instrument, certificate or document, as the case may be. All of (i) the Lessee's rights, and the rights of any other party derived through the Lessee or the Lease, in, to or with respect to the Locomotives, (ii) Seller's obligations (and the obligations of any party acting on behalf of, for the benefit of or as trustee for Seller) to the Lessee with respect to the Locomotives, (iii) the Agent's rights, and the rights of any other party derived through the Agent or the Conditional Sale Agreements, in to or with respect to the Locomotives and (iv) Seller's obligations (and the obligations of any party acting on behalf of, for the benefit of or as trustee for Seller) to the Agent or any such other party with respect to the Locomotives are set forth in no agreements, instruments or documents other than the Lease, the Conditional Sale Agreements, that certain finance agreement dated as of January 10, 1973 (the "Finance Agreement") by and among the Agent, Bank of America National Trust and Savings Association and the investors identified therein, a copy of which is attached hereto as Exhibit H, and the Agreements and Assignments.

b. The Lease and the Conditional Sale Agreements are in full force and effect, all amounts payable thereunder are current and, to Seller's knowledge, there is no Event of Default (as defined in Section 20 of the Lease) event of default (as defined in Section 16 of the Conditional Sale Agreements) or other default continuing thereunder, or event or condition, which, with the lapse of time or notice, or both, would become such an Event of Default, event of default or such other default, as the case may be, thereunder.

c. Seller has not failed to perform any of its obligations set forth in the Lease, under the CSA Indebtedness or in any other agreement, certificate, instrument or document executed or delivered by Seller in connection therewith.

d. The amount of rent remaining unpaid under the Lease is \$3,684,355.36, payable in arrears in 16 equal quarterly installments of \$230,272.21 each, on March 30, June 30, September 30 and December 30 of each year, commencing on March 30, 1985. The original cost to Seller of each Locomotive is set forth on Exhibit A hereto.

e. The remaining unpaid CSA Indebtedness under the Conditional Sale Agreements is \$2,392,701.45, payable, together with interest thereon, in arrears in seven equal semi-annual installments of \$397,910.78 each, on June 30 and December 30 of each year, commencing on June 30, 1985.

f. This Agreement, the Lease, the Conditional Sale Agreements, and all other agreements, instruments, certificates and documents executed or delivered by Seller in connection herewith and therewith have been duly authorized, executed

and delivered by Seller and constitute legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms, and, on the Closing Date, the Assignment, the Bill of Sale, the Assumption of CSA Indebtedness and all other agreements, instruments, certificates and documents executed or delivered by Seller in connection herewith or therewith will have been duly authorized, executed and delivered by Seller and will constitute legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms. No approval of any public regulatory body is, or was, required in order for Seller to enter into or execute this Agreement, the Conditional Sale Agreements, the Bill of Sale, the Assignment, the Assumption of CSA Indebtedness, or any other agreement, instrument, certificate or document executed or delivered by Seller in connection herewith or therewith, and the entering into and performance thereof or thereunder by Seller do not, and will not, require the consent of the Lessee, the Agent or any other party and have not, and will not, result in a breach or default under any other agreement to which Seller was, or is, a party or by which Seller may have been, or may be, bound, if such breach or default could materially and adversely affect Purchaser's rights hereunder or otherwise in respect to the Locomotives or the Lease.

g. Seller is the lawful owner of the Locomotives and has good, valid and marketable title thereto, free from, and clear of, any charge, lien, encumbrance or other claim or interest whatsoever (collectively referred to hereinafter as "Claims"), except for the rights and interests therein of the Lessee under the Lease and the rights, security title and interests of the Agent under the Conditional Sale Agreements, as assigned by the Agreements and Assignments.

h. Seller is the lessor of the Locomotives and has all of the rights, title and interests of the lessor under the Lease, free from, and clear of, any Claims, subject, as set forth in the Lease, to the rights of the Agent under the Conditional Sale Agreement, as assigned by the Agreements and Assignments.

i. Seller agrees to indemnify and defend Purchaser and its successors and assigns from and against any claims or liabilities arising from Seller's breach of the warranties of title set forth in paragraphs g and h of this Section 6.1.

j. The statements of fact set forth in the Recitals above are true and complete and shall be deemed, as the case may be, covenants, representations and warranties of Seller.

k. Seller acknowledges that Purchaser may finance the purchase of the Locomotives, and, in connection therewith, will assign all of its rights and interests under this Agreement as security to the financial institution that provides such financing (the "Lender"). Seller, without further action by Purchaser, the Lender or any other party, hereby (i) consents and agrees to such an assignment, provided Seller's rights and Purchaser's obligations hereunder are not affected, (ii) agrees, at no cost to Seller (including the cost of reasonable review by Seller's attorney), to execute such documents as Purchaser or Lender may reasonably request evidencing such assignment, provided that the obligations of Seller hereunder shall not thereby be increased or made more burdensome, (iii) agrees, upon notice of such assignment from Purchaser, that all of Purchaser's rights hereunder shall, until notice to the contrary from the Lender to Seller, be exercised by, and only by, the Lender and (iv) agrees that the Lender shall incur no obligations to Seller hereunder or otherwise by reason of such assignment. The Lender may (I) enforce, by legal, equitable or whatever other means or remedies as may be available, including, but not limited to, specific performance, any and all obligations of Seller set forth herein and (II) rely upon the representations, warranties and covenants of Seller set forth in this Section 6.1, elsewhere in this

Agreement and in the certificate referred to in Section 7.1 below, as if given directly to the Lender.

l. No financing statement or other document or filing by Seller, or any party claiming by, through or under Seller, has been registered or filed with the Interstate Commerce Commission or any other federal, or any state, local or foreign, governmental entity or agency that states that any party has an interest in the Locomotives or the Lease other than the rights and interests of Purchaser and any successor or assign thereof, the rights and interests of the Lessee under the Lease and the rights and interests of the Agent under the Conditional Sale Agreements, as assigned by the Agreements and Assignments.

m. NEITHER SELLER NOR EITHER OF THE GUARANTORS MAKES ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, OPERATION, OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN, THE LOCOMOTIVES. NEITHER SELLER NOR EITHER OF THE GUARANTORS MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE LOCOMOTIVES FOR ANY PARTICULAR PURPOSE OR ANY OTHER WARRANTY OR REPRESENTATION WHATSOEVER EXCEPT THE SPECIFIC REPRESENTATIONS AND WARRANTIES SPECIFIED IN THIS SECTION 6.1, IN THE BILL OF SALE, IN THE ASSIGNMENT AND IN THE ASSUMPTION OF CSA INDEBTEDNESS. IN NO EVENT SHALL SELLER OR EITHER OF THE GUARANTORS BE RESPONSIBLE FOR DAMAGE ARISING IN STRICT LIABILITY OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING.

6.2 Representations and Warranties of Purchaser

a. Purchaser hereby represents and warrants that this Agreement has been duly authorized, executed and delivered by Purchaser and constitutes a legal, valid and binding obligation of Purchaser, enforceable in accordance with its terms, and, on the Closing Date, the Assumption of CSA Indebtedness and all other agreements, instruments, certificates and documents executed or delivered in connection herewith or therewith by Purchaser will have been duly authorized, executed and delivered by Purchaser and will constitute legal, valid and binding obligations of Purchaser, enforceable in accordance with their respective terms.

b. Purchaser shall indemnify Seller and the Guarantors, and hold Seller and the Guarantors harmless, from and against any claim or liability arising on or after the Closing Date by reason of the failure of Purchaser to comply with any of its obligations under this Agreement, the Assumption of CSA Indebtedness or any other agreement or document entered into or delivered in connection herewith or therewith.

7. Conditions to Closing

7.1 The obligation of Seller to sell the Locomotives and assign the Lease to Purchaser, and the obligation of Purchaser to assume the CSA Indebtedness and pay the Purchase Price, are subject to satisfaction, on or before the Closing Date, of the following conditions:

a. The representations, warranties and covenants set forth in Section 6 above shall be true and correct in all material respects on the Closing Date as if made on that date, and Purchaser and Seller shall each deliver to the other a certificate so certifying as to the representations, warranties and covenants given or made by it.

b. Seller shall have delivered to Purchaser an opinion of counsel, dated the Closing Date and satisfactory in form and substance to Purchaser's counsel, to the effect set forth in paragraphs f, g and h of Section 6.1 above.

c. Purchaser shall have delivered to Seller an opinion of counsel, dated the Closing Date and satisfactory in form and substance to Seller's counsel, to the effect set forth in paragraph a of Section 6.2 above.

d. Purchaser shall have received the Notice of Sale of Locomotives and Assignment of Lease attached as Exhibit I hereto (the "Notice of Sale"), duly executed by Seller, and Purchaser shall be reasonably satisfied that no consent by the Lessee, the Agent or any other party, and that no other action by Seller, Purchaser, the Lessee, the Agent or any other party, shall be required (a) to effect the sale of the Locomotives, or the assignment of the Lease, to Purchaser, (b) to enable Purchaser, subject to the rights of the Agent, to enforce any of the terms of the Lease or (c) to effect the assumption of the CSA Indebtedness by Purchaser.

e. Purchaser, if it elects to do so, shall have arranged, on terms acceptable to Purchaser, to finance the purchase of the Locomotives.

f. All documents and instruments shall have been filed by Purchaser with the appropriate public officers as may be deemed appropriate by Purchaser in order to perfect the right, title and interest of Purchaser and the Lender in and to the Locomotives and the Lease.

g. Seller shall tender to Purchaser the Bill of Sale, the Assignment and all other agreements, certificates, instruments and documents contemplated hereby or thereby to be executed or delivered by Seller, and Purchaser shall tender to Seller the cash portion of the Purchase Price, the Assumption of CSA Indebtedness and all other agreements, certificates, instruments and documents contemplated hereby or thereby to be executed or delivered by Purchaser.

7.2 If any of the conditions set forth in paragraph a (with respect to the certificate to be delivered by Seller), b, d (with respect to the execution and delivery to Purchaser of the Notice of Sale) or g (with respect to the tender by Seller) of Section 7.1 above are not satisfied or before the Closing Date, then Purchaser shall have no obligation hereunder to purchase the Locomotives from Seller or assume the CSA Indebtedness, and if any of the conditions set forth in paragraph a (with respect to the certificate to be delivered by Purchaser), c, d (except with respect to the execution and delivery to Purchaser of the Notice of Sale), e, f or g (with respect to the tender by Purchaser) of Section 7.1 above are not satisfied on or before the Closing Date, then Seller shall have no obligation hereunder to sell the Locomotives and assign the Lease to Purchaser.

8. Guarantee

8.1 In addition to giving and making the representations, covenants and warranties set forth in Section 6.1 above, the Guarantors, severally but not jointly, hereby unconditionally guarantee to Purchaser, its successors and assigns the full, prompt, complete and punctual performance by Seller under this Agreement, the Bill of Sale, the Assignment, the Assumption of CSA Indebtedness and any other agreement, certificate, instrument or document executed or delivered by Seller in connection herewith or therewith (the "Guaranteed Documents"), payment of all sums that may become due from Seller to Purchaser under any of the Guaranteed Documents and

satisfaction in full of any liability of Seller that might arise under, or in connection with, any of the Guaranteed Documents. This guarantee is not limited to any particular period of time, but shall continue until all of the terms covenants and conditions of all of the Guaranteed Documents shall have been fully and completely performed and all liabilities and other obligations arising hereunder satisfied in full. This guarantee is a guarantee of payment and not of collection. Without limiting the generality of the foregoing, the obligations of the Guarantors hereunder, and the rights of Purchaser to enforce the same by proceedings, whether by action at law, suit in equity, or otherwise, shall not in any way be affected by any insolvency, bankruptcy, liquidation, reorganization, readjustment, composition, dissolution, winding up, or other proceeding involving or affecting Seller, or any other person, or any change in the ownership of Seller.

8.2 With respect to any payment required to be made by the Guarantors pursuant to the terms of Section 8.1 above, the liability of Centerre therefor shall be limited to 90% of such payment and the liability of Commerce Bank therefor shall be limited to 10% of such payment.

9. Further Assurances

9.1 Seller, the Guarantors and Purchaser agree to execute and deliver, at no cost or expense to the party so executing and delivering, such other documents and instruments as may be reasonably necessary to carry out the intent of this Agreement, including, but not limited to, any notice required by the Lender to be given to the Lessee, the Agent or any other party.

10. Risk of Loss

10.1 Risk of loss with respect to the Locomotives shall pass to Purchaser only upon the purchase and sale thereof on the Closing Date.

11. Notices

11.1 All notices and documents to be delivered hereunder shall be in writing, and shall be forwarded via certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Seller:

The First National Leasing Company
c/o Centerre Bank, N.A.
One Centerre Plaza
St. Louis, Missouri 63101
Attention: Donald E. Sullivan
Commercial Banking Officer

If to Purchaser:

TXL ASTRA Corporation VI
One Embarcadero Center
Suite 3800
San Francisco, California 94111
Attention: Vice President and General Counsel

If to the Guarantors:

Centerre Bank National Association
One Centerre Plaza
St. Louis, Missouri 63101
Attention: Donald E. Sullivan
Commercial Banking Officer

and

Commerce Bank of St. Louis County
8000 Forsythe
Clayton, Missouri 63105
Attention: Rodney F. Hill
Executive Vice President

12. Miscellaneous

12.1 This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof and may not be changed or amended except by a written instrument signed by all the parties hereto. This Agreement supersedes all agreements, proposals, offers and representations with respect to the subject matter hereof. This Agreement and the rights of the parties hereunder shall be governed and construed under the laws of the state of Missouri. This Agreement shall inure to the benefit of the successors and assigns of, respectively, Seller and Purchaser. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original with respect to any party whose signature appears thereon, and all of such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their proper and duly authorized officers as of the day and year first above written.

TXL ASTRA CORPORATION VI

THE FIRST NATIONAL LEASING COMPANY,
a Missouri general partnership

By: _____

By: Grantor Trust for the Benefit of
CENTERRE BANK NATIONAL
ASSOCIATION, f/k/a FIRST NATIONAL
BANK IN ST. LOUIS, and FIRST OF ST.
LOUIS LEASING CORPORATION NO. 1

**CENTERRE BANK NATIONAL
ASSOCIATION**

By: _____
Charles Teachenor, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

By: _____

-And-

**COMMERCE BANK OF ST. LOUIS
COUNTY**

By: Grantor Trust for the Benefit of
COMMERCE BANK OF ST. LOUIS
COUNTY, f/k/a ST. LOUIS COUNTY
NATIONAL BANK

By: _____

By: _____
Rodney F. Hill, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

DESCRIPTION OF LOCOMOTIVES

EXHIBIT A
to
Purchase and Assignment Agreement

DESCRIPTION OF LOCOMOTIVES

<u>Description and Quantity</u>	<u>Lessee Road Numbers (Inclusive)</u>	<u>Allocation of Purchase Price (Per Locomotive)</u>	<u>Average Original Cost (Per Locomotive)</u>
Thirty-seven 2,000 Horsepower Model GP 38-2 Diesel Electric Locomotives Manufactured by General Motors Corporation (Electro-Motive Division)	MP 2074-2110 (Formerly MP 923-959; Anticipated to be changed to MP 7074-7110)	\$124,691.28	\$245,048
Seven 2,250 Horsepower Model U-23-B Diesel Electric Locomotives Manufactured by General Electric Company	MP 4500-4506 (Formerly MP 668-674)	\$89,874.87	\$264,835

- **EXHIBIT A** -
to
Purchase and Assignment Agreement

GENERAL MOTORS CORPORATION
CONDITIONAL SALE AGREEMENT

EXHIBIT B-1
to
Purchase and Assignment Agreement

[CONFORMED COPY]

CONDITIONAL SALE AGREEMENT

Dated as of January 10, 1973

among

GENERAL MOTORS CORPORATION
(Electro-Motive Division),

as Vendor,

THE FIRST NATIONAL LEASING COMPANY,

as Vendee,

and

MISSOURI PACIFIC RAILROAD COMPANY,

as Guarantor

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on January 22, 1973, at 10:30 A.M., Recordation No. 6867.

EXHIBIT B-1

to

Purchase and Assignment Agreement

CONDITIONAL SALE AGREEMENT dated as of January 10, 1973, among the corporation named in Item 1 of Annex A hereto (hereinafter called the Vendor or Builder as more particularly set forth in Article 25 hereof), MISSOURI PACIFIC RAILROAD COMPANY, a Missouri corporation (hereinafter called the Guarantor or the Lessee) and THE FIRST NATIONAL LEASING COMPANY, a partnership (hereinafter called the Vendee).

WHEREAS, the Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment); and

WHEREAS, the Vendee is executing a lease of the Equipment as of the date hereof to the Lessee in substantially the form annexed hereto as Annex C (hereinafter called the Lease) and the Guarantor is willing to guarantee to the Vendor the due and punctual payment of all sums payable by, and the due and punctual performance of all other obligations of, the Vendee under the Lease Agreement and has joined in this Agreement for the purpose of setting forth the terms and conditions of such guaranty and making certain further agreements as hereinafter set forth:

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

ARTICLE 1. *Incorporation of Model Provisions.* Whenever this Agreement incorporates herein by reference, in whole or in part or as hereby amended, any provision of the document entitled "Model Conditional Sale Provisions for Lease Transactions" annexed to this Agreement as Part I of Annex C hereto (hereinafter called the Model CSA Provisions), such provision of the Model CSA Provisions shall be deemed to be a part of this instrument as fully to all intents and purposes as though such provision had been set forth in full in this Agreement.

ARTICLE 2. *Construction and Sale.* Article 2 of the Model CSA Provisions is herein incorporated as Article 2 hereof.

ARTICLE 3. *Inspection and Delivery.* Article 3 of the Model CSA Provisions is herein incorporated as Article 3 hereof except that there shall be added at the end of the last paragraph thereof the following provisos:

“: *provided, however,* that no delivery of any unit of the Equipment shall be made until this Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act; *provided further,* that Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the filing by or against the Guarantor of a petition for reorganization under Section 77 of the Bankruptcy Act and prior to the assumption, adoption or affirmation of the obligations of the Guarantor under this Agreement by a trustee or trustees acting pursuant to a court order or decree in any proceeding under said Section 77”.

ARTICLE 4. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Vendee and the Guarantor. The term “Purchase Price” as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date (as hereinafter defined in this Article) the aggregate of the Invoiced Purchase Prices (as hereinafter defined in this Article) for which settlement has theretofore been and is then being made under this Agreement and the Conditional Sale Agreement referred to in Item 2 of Annex A hereto (hereinafter called the Other Agreement) would, but for the provisions of this sentence exceed the Maximum Purchase Price specified in Annex B hereto (or such higher amount as the Vendee may at its option agree to), the Builder (and any assignee of the Builder) and the Guarantor will, upon request of the Vendee, enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion and any concurrent exclusion under the Other Agreement, reduce such aggregate Invoiced Purchase Prices under both this Agreement and the Other Agreement to not more than the Maximum Purchase Price specified in Annex B hereto (or such higher amount as aforesaid), and the Guarantor agrees to purchase any such unit or units so excluded from this Agreement from the Builder for cash on the date such unit or units would otherwise have been settled for under this Agreement either directly, or, if the Builder

The Guarantor shall mutually agree, by means of a conditional sale, equipment trust or other appropriate method of financing.

The Equipment shall be settled for in such number of groups of units of Equipment delivered to and accepted by the Vendee as is provided in Article V of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean a date (not earlier than January 30, 1973 and not later than June 20, 1973 such later date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the invoice and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Guarantor, which shall be fixed by the Guarantor by written notice delivered to the Vendee by the Vendor at least five business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, are authorized or obligated to remain closed.

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

(a) On the Closing Date with respect to each Group (i) an amount equal to 34.08% of the aggregate Purchase Price of such Group plus (ii) the amount by which (x) 65.92% of the Purchase Price of all units of the Equipment covered by this Agreement and the Other Agreement for which settlement has theretofore and is then being made, as set forth in the invoice or invoices therefor (said invoiced prices being herein called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Annex B and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii) and pursuant to clause (ii) of subparagraph (a) of the third paragraph of Article 4 of the Other Agreement (said excess of the amount referred to in clause (x) over the amount referred to in clause (y) being hereinafter called the Excess Amount); *provided, however,* that if settlement is also being made on such Closing Date for units of railroad equipment under the Other Agreement, the amount payable pursuant to clause (ii) of this subparagraph (a) shall be that proportion of the Excess Amount which the Invoiced Purchase Prices

payable on such Closing Date under this Agreement is of the aggregate of all the Invoiced Purchase Prices payable on such Closing Date under this Agreement and the Other Agreement; and

(b) In 28 instalments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

Each instalment of the portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (said portion of the aggregate Purchase Price for such Equipment being herein called the Conditional Sale Indebtedness) shall be in an amount equal to the product of (x) the percentage figures set forth in column 3 of Annex E hereto opposite the number of such instalment set forth in column 1 of Annex E and (y) the aggregate amount of Conditional Sale Indebtedness. The unpaid balance of each instalment of Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate set forth opposite such instalment in column 4 of Annex E and such interest shall be payable, to the extent accrued, on June 30, 1973 and on each succeeding December 30 and June 30 (or if any such date is not a business day, on the next preceding business day; each such succeeding December 30 and June 30 being hereinafter called a Payment Date), up to and including the Payment Date with respect to such instalment as set forth in column 5 of Annex E. Each instalment of Conditional Sale Indebtedness set forth in column 1 of Annex E shall be payable on the Payment Date set forth opposite such instalment in column 5 of Annex E. The Vendee will furnish to the Vendor and the Guarantor promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Vendee will pay interest, to the extent legally enforceable, at the rate of 10% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

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All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The parties hereto contemplate (subject to the limitations set forth in the first paragraph of this Article) that the Vendee will furnish that portion of the Purchase Price for the Equipment as is required under subparagraph (a) of the third paragraph of this Article and that an amount equal to the balance of such Purchase Price (not to exceed the Maximum Conditional Sale Indebtedness specified in Annex B) shall be paid to the Builder by an assignee of the Builder's right, title and interest under this Agreement pursuant to an Agreement and Assignment between the Builder and United States Trust Company of New York, as Agent (such Agreement and Assignment being hereinafter called the Assignment and such Trust Company being herein called the Assignee or the Vendor as indicated in Article 25 hereof).

It is agreed that the obligation of the Vendee to pay to the Vendor any amount required to be paid pursuant to the third paragraph of this Article with respect to the Equipment is specifically subject to the fulfillment, on or before the Closing Date in respect of any Group, of the following conditions (any of which may be waived by the Vendee, and payment by the Vendee of the amount specified in subparagraph (a) of the third paragraph of this Article with respect to such Group shall be conclusive evidence that such conditions have been fulfilled or irrevocably waived):

(a) the Assignee shall have paid or caused to have been paid to the Builder the amounts contemplated to be paid by it as provided in the preceding paragraph of this Article and in Section 6 of the Assignment and the documents required by Section 6 of the Assignment shall have been delivered;

(b) no event of default of the Guarantor specified herein or Event of Default of the Lessee under the Lease, nor any event which with lapse of time and/or demand provided for herein or in the Lease would constitute such an event of default or Event of Default, shall have occurred and be continuing; and

(c) the Vendee shall have received (i) the opinion of counsel required by § 15 of the Lease and (ii) such other documents as the Vendee may reasonably request.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof), it is understood and agreed by the Vendor that the liability of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or the Assignee shall have actually received sufficient "income or proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendor agrees that the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee or the Assignee. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease in so far as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Guarantor and the Equipment and to the Vendor's rights under the Lease against the Lessee and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (1) if one of the events of default specified in Article 16 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or the Assignee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as hereinafter defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and (b) any and all payments or proceeds received by the Vendee or the Assignee for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of

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an sale, lease or other disposition, and (c) any and all other payments received by the Vendee or the Vendor under § 10 of the Lease and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a), (b) and (c) as are indefeasibly received by the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including repayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on, or within six days after, the date such amounts received by the Vendee or the Assignee were required to be paid to pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a), (b) and (c) which were received by the Vendee or the Assignee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on, or within six days after, the Payment Date corresponding to the date on which amounts with respect thereto received by the Vendee or the Assignee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. It is further specifically understood and agreed that nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment or the Guarantor as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5. *Title to the Equipment.* Article 5 of the Model CSA Provisions is herein incorporated as Article 5 hereof.

ARTICLE 6. *Taxes.* Article 6 of the Model CSA Provisions is hereby incorporated as Article 6 hereof.

ARTICLE 7. Maintenance and Repair; Casualty Occurrences; Insurance.
 The Vendee agrees that, at its own cost and expense, it will maintain and keep each unit of the Equipment in good order and repair.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Vendee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the next succeeding Payment Date, the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied to prepay, ratably in accordance with the unpaid balance of each instalment, the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Vendor and the Guarantor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request, calculated as provided in the fourth paragraph of Article 4 hereof.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

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The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of

the Purchase Price of such unit shall be aggregated with the unpaid balance of the Conditional Sale Indebtedness and the Vendee shall be deemed to have paid the same to the Vendor and the Guarantor. The Vendor shall be deemed to have received the same and the Vendee shall be deemed to have satisfied its obligation to the Vendor and the Guarantor. The Vendor shall be deemed to have received the same and the Vendee shall be deemed to have satisfied its obligation to the Vendor and the Guarantor.

the Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in the proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

The Guarantor will at all times prior to the payment of the full purchase price in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Guarantor on equipment owned by it. Such insurance shall be payable to the Vendor, the Vendee and the Guarantor as their interests may appear.

It is further understood and agreed that any insurance proceeds received by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Vendee to the Vendor in respect of Casualty Occurrences pursuant to the second paragraph of this Article. If the Vendor shall receive any other insurance proceeds in respect of insurance carried in respect of such units suffering a Casualty Occurrence after the Vendee shall have made payments pursuant to this Article without deduction for such insurance proceeds, the Vendor shall pay such insurance proceeds to the Vendee. All proceeds of insurance received by the Vendor in respect of insurance carried on any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Obligations of Guarantor. The Guarantor, for value received, hereby unconditionally guarantees to the Vendor by endorsement (through its execution hereof) the due and punctual payment of that portion of the Purchase Price of the Equipment payable pursuant to subparagraph (b) of the third paragraph of Article 4 hereof and interest thereon, and the due and punctual performance of all obligations of the Vendee under this Agreement and unconditionally guarantees to the Vendor that all sums payable by the Vendee under this Agreement (except for the sums payable by the Vendee pursuant to subparagraph (a) of the third paragraph of Article 4 hereof), will be promptly paid when due, together with interest.

thereon as herein provided, whether at stated maturity or by declaration or otherwise, and in case of default by the Vendee in any such obligations or payments the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Vendee of any of the rights of the Vendor hereunder.

The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever), irrespective of the genuineness, validity, regularity or enforceability of this Agreement or any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor and irrespective of the last paragraph of Article 4 hereof or any other circumstances which might otherwise limit the recourse of the Vendor to the Vendee. The Guarantor hereby waives diligence, presentment, demand of payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Vendor of any of its rights hereunder and no action by the Vendor to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

In the event that the Guarantor shall make any payments to the Vendor on account of its guaranty hereunder, the Guarantor hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Vendee or with respect to any of the units of the Equipment by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Guarantor, *provided, however,* that after the payment by the Guarantor to the Vendor of all sums payable under this Agreement, the Guarantor shall, by subrogation, be entitled to the rights of the Vendor against the Vendee by reason of such payment, to the extent, but only to the extent, that the Vendee has received "income and proceeds from the Equipment" (as defined in Article 4 hereof) and has not applied amounts equal to such income and proceeds to the payment, in accordance with this Agreement and subject to the limitations contained in the last paragraph of said Article 4, of sums payable by the Vendee to the Vendor hereunder.

ARTICLE 9. *Reports and Inspections.* Article 9 of the Model CSA Provisions is herein incorporated as Article 9 hereof. The Guarantor has furnished to the Vendor the audited consolidated balance sheet of the

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Guarantor as of December 31, 1971, the related audited consolidated statement of income and consolidated statement of retained earnings, and the unaudited consolidated statement of income and retained earnings of the Guarantor as of September 30, 1972, and such financial statements correctly set forth the consolidated financial condition of the Guarantor and its consolidated subsidiaries as of said respective dates and the consolidated results of their operations for such periods, and since December 31, 1971 there has been no material adverse change in such condition or results of operations and nothing has occurred which will materially adversely affect the ability of the Guarantor to carry on its business and operations and to perform its obligations under this Agreement. The Guarantor also agrees to furnish to the Vendor in such number as the Vendor shall request (i) as soon as practicable, and in any event within 45 days after the end of each of the first three quarterly periods in each fiscal year of the Guarantor, a consolidated statement of income and a consolidated statement of retained earnings of the Guarantor for the period from the beginning of each fiscal year to the end of such quarterly period, and consolidated balance sheets of the Guarantor as at the end of such quarterly period, setting forth in the case of statements of income, in comparative form, figures for the corresponding period in the preceding fiscal year, all in reasonable detail and certified by an authorized financial officer of the Guarantor, subject to changes resulting from year-end adjustments; and (ii) as soon as practicable and in any event within 120 days after the end of each fiscal year of the Guarantor consolidated statements of income and of retained earnings of the Guarantor for such year, and consolidated balance sheets of the Guarantor as of the end of such year, setting forth in each case, in comparative form, corresponding figures for the preceding fiscal year, all in reasonable detail and certified by independent public accountants.

ARTICLE 10. *Marking of Equipment.* Article 10 of the Model CSA Provisions is herein incorporated as Article 10 hereof, except that nothing contained in such §10 shall prevent the Vendee from allowing the Equipment to be lettered with its name, initials or other insignia.

ARTICLE 11. *Compliance with Laws and Rules.* Article 11 of the Model CSA Provisions is herein incorporated as Article 11 hereof.

ARTICLE 12. *Possession and Use.* Article 12 of the Model CSA Provisions is herein incorporated as Article 12 hereof.

ARTICLE 13. *Prohibition Against Liens.* Article 13 of the Model CSA Provisions is herein incorporated as Article 13 hereof.

ARTICLE 14. *Indemnities and Warranties.* Article 14 of the Model CSA Provisions is herein incorporated as part of Article 14 hereof. The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification contained in Items 4 and 5 of Annex A hereto are herein incorporated as part of this Article.

ARTICLE 15. *Assignments.* Article 15 of the Model CSA Provisions is herein incorporated as Article 15 hereof.

ARTICLE 16. *Defaults.* Article 16 of the Model CSA Provisions is hereby amended by deleting the number "15" in subparagraph (a) thereof and substituting in place thereof the number "5". Article 16 of the Model CSA Provisions, as so amended, is herein incorporated as Article 16 hereof.

ARTICLE 17. *Remedies.* Article 17 of the Model CSA Provisions is herein incorporated as Article 17 hereof.

ARTICLE 18. *Applicable State Laws.* Article 18 of the Model CSA Provisions is herein incorporated as Article 18 hereof.

ARTICLE 19. *Recording.* Article 19 of the Model CSA Provisions is herein incorporated as Article 19 hereof.

ARTICLE 20. *Payment of Expenses.* Article 20 of the Model CSA Provisions is herein incorporated as Article 20 hereof except that references therein to the "Guarantor" shall be deemed to be references to the "Vendee". The Guarantor will pay the reasonable costs and expenses involved in the recording of this Agreement, the first assignment of this Agreement and any amendments thereto as provided in Article 19 hereof.

ARTICLE 21. *Article Headings; Effect and Modification of Agreement.* Article 21 of the Model CSA Provisions is herein incorporated as Article 21 hereof.

ARTICLE 22. *Notice.* Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

- (a) to the Vendee at 510 Locust Street, St. Louis, Missouri 63103.
- (b) to the Guarantor, at 210 North Thirteenth Street, St. Louis, Missouri 63103.

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(c) to the Builder, at the address specified in Item 1 of Annex A hereto.

(d) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Guarantor, by such assignee.

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

ARTICLE 23. *Immunities; Satisfaction of Undertakings.* No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, past, present or future, of the Vendee, the Guarantor or the Builder (or Vendor), whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the first paragraph of Article 7 and under Articles 6, 9, 10, 11, 13, 14, the fifth paragraph of Article 15 and 19 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in §§5, 6, 8, 9, 12 and 16 of the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for such obligations under said Articles regardless of whether or not the Lease provides for the discharge of such obligations or is in effect. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

ARTICLE 24. *Law Governing.* Article 24 of the Model CSA Provisions is herein incorporated as part of Article 24 hereof; the term "Selected Jurisdiction" as used therein shall mean the State of Missouri.

ARTICLE 25. *Definitions.* Article 25 of the Model CSA Provisions is herein incorporated as Article 25 hereof.

ARTICLE 26. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an

original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of January 10, 1973, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

[CORPORATE SEAL]

by HAROLD L. SMITH
Vice President

Attest: W. H. THOMAS
Assistant Secretary

THE FIRST NATIONAL LEASING
COMPANY,

by RONALD D. PRASSE
Authorized Agent

MISSOURI PACIFIC RAILROAD
COMPANY,

[CORPORATE SEAL]

by M. M. HENNELLY
Vice President

Attest: G. P. STRELINGER
Assistant Secretary

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STATE OF MISSOURI }
 CITY OF ST. LOUIS } ss.:

On this 20th day of January, 1973, before me personally appeared M. M. HENNELLY, to me personally known, who, being by me duly sworn, says that he is a Vice President of MISSOURI PACIFIC RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

R. C. MASON
Notary Public

[NOTARIAL SEAL]

My Commission Expires September 28, 1974.

STATE OF MISSOURI }
 CITY OF ST. LOUIS } ss.:

On this 20th day of January, 1973, before me appeared Ronald D. Prasse, to me personally known, who being by me duly sworn, did say that he is the authorized agent of The First National Leasing Company, a partnership under the laws of the State of Missouri, and that said instrument was signed on behalf of said partnership by authority of said partnership, and said Ronald D. Prasse acknowledged the said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF I have affixed my hand and seal in the city and state as aforesaid, on the day and year first above stated.

R. C. MASON
Notary Public

[NOTARIAL SEAL]

My Commission Expires September 28, 1974.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this 19th day of January, 1973, before me personally appeared HAROLD L. SMITH, to me personally known, who being by me duly sworn, says that he is a Vice President of General Motors Corporation (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

J. G. SAWYER
Notary Public

[NOTARIAL SEAL]

My Commission Expires October 28, 1975

Item 1:
Item 2:
Item 3:
Item 4:

**MODEL CONDITIONAL SALE
PROVISIONS FOR LEASE TRANSACTIONS**

[See Part I of Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

Annex A
to
Conditional Sale Agreement

- Item 1: General Motors Corporation (Electro-Motive Division), a Delaware corporation, having an address at La Grange, Illinois 60525.
- Item 2: The Conditional Sale Agreement dated as of January 10, 1973, among the Vendee, the Guarantor and General Electric Company.
- Item 3: The Equipment shall be settled for in not more than five Groups of units of the Equipment delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 4: The Builder warrants that the Equipment is of the kind and quality described in, or will be built in accordance with, the Specifications referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (hereinafter in this Annex A called the Agreement) and is suitable for the ordinary purposes for which the Equipment is used and warrants each unit of the Equipment to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery of such unit or before such unit has been operated 250,000 miles, whichever event shall first occur. The Builder agrees to correct such defects, which examination shall disclose to the Builder's satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of the Builder's obligation with respect to such defect under this warranty.

The Builder warrants specialties not of its own specification or design to the same extent that the suppliers of such specialties warrant such items to the Builder.

There are no warranties with respect to material and workmanship, expressed or implied, made by the Builder except the warranties set out above.

Notwithstanding anything to the contrary contained in the Agreement, it is understood and agreed that there will be incorporated in each unit of the Equipment a limited number of used components which will be remanufactured by the Builder and will be equivalent to new components.

The Builder further agrees with the Vendee that neither the inspection as provided in Article 3 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or modification by the Vendee of any of its rights under this Item 4.

Item 5: Except to the extent the Builder is obligated under the Agreement to indemnify, protect and hold harmless each assignee of any of the rights of the Builder under the Agreement, the Vendee agrees to indemnify, protect and hold harmless each such assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against each such assignee because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material which infringes or is claimed to infringe on any patent or other right.

The Builder shall defend any suit or proceeding brought against the Vendee, the Lessee and/or each assignee of the Builder's rights under this Agreement so far as the same is based on a claim that the Equipment of Builder's specification, or any part thereof, furnished under the Agreement constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance (at Builder's expense) for the defense of same, and the Builder shall pay all damages and costs awarded therein against the Vendee, the Lessee and/or any such assignee.

In case any unit of the Equipment, or any part thereof, is in such suit held to constitute infringement and the use of such unit or part is enjoined, the Builder shall at its option and at its own

expense either procure for the Vendee, the Lessee and any such assignee the right to continue using such unit or part, or replace the same with non-infringing equipment subject to the Agreement, or modify it so it becomes non-infringing, or remove such unit and refund the Purchase Price and the transportation and installation costs thereof. If the Purchase Price is so refunded, such refund shall be made to the assignee of the Builder's rights under the Agreement if the Agreement has been so assigned, which refund shall be applied in like manner as payments in respect of Casualty Occurrences under Article 7 of the Agreement.

The Builder will not assume liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specification.

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

Annex B
to
Conditional Sale Agreement
General Motors Corporation
(Electro Motive Division)
Equipment

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Road Numbers (Both Inclusive)	Unit Base Price	Total Base Price	Estimated Time and Place of Delivery
2000 H.P. G.P.-38-2 EMD Locomotives	No. 8090 dated January 3, 1972, as amended by specification No. 8090-3, dated January 3, 1972	La Grange, Illinois	37	MP 923-959	\$251,200	\$9,294,400	Jan-June, 1973 at McCook, Ill.

As per 1/17/72

The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex B is attached is \$11,529,125. The Maximum Conditional Sale Indebtedness referred to in said Article 4 is \$7,600,000.

*Reviewed
1/17/72*

ANNEX B

to
Conditional Sale Agreement

MODEL PROVISIONS

- PART I MODEL CONDITIONAL SALE PROVISIONS
PART II MODEL LEASE PROVISIONS
PART III MODEL ASSIGNMENT PROVISIONS

PART L
MODEL CONDITIONAL SALE
PROVISIONS FOR LEASE TRANSACTIONS

Part I

**MODEL CONDITIONAL SALE PROVISIONS FOR
LEASE TRANSACTIONS**

ARTICLE 2. *Construction and Sale.* Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto, and will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Guarantor (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such units of the Equipment, and each unit of the Equipment (except to the extent, if any, referred to in Annex A hereto and/or Article 7 hereof) will be new railroad equipment.

ARTICLE 3. *Inspection and Delivery.* The Builder will deliver the units of the Equipment to the Vendee at the place or places within the United States of America specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places within the United States of America designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

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

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Guarantor) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect all materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Guarantor) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee on the date of such Certificate of Acceptance and are marked in accordance with Article 10 hereof; *provided, however*, that the Builder shall not thereby be relieved of its warranties set forth or referred to in Article 14 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; *provided, however*, that the Builder shall not thereby be relieved of its warranties set

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forth or referred to in Article 14 hereof. The Builder and the Guarantor represent and warrant to, and agree with, the Vendee that no unit of the Equipment will be delivered to or used by the Guarantor or any other persons unless the same shall first be duly subjected to this Agreement and the Lease.

ARTICLE 5. *Title to the Equipment.* The Vendor shall and hereby does retain the full security title to and property in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Guarantor as provided in this Agreement. Any and all additions to the Equipment (except, in the case of any unit of the Equipment which is a locomotive, communications, signal and automatic control equipment or devices having a similar use which have been added to such unit by the Guarantor, the cost of which is not included in the Purchase Price of such unit and which are not required for the operation or use of such unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any unit of the Equipment shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

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Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Vendee, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in

all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. *Taxes.* All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which impositions the Vendee assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Vendor or result in a lien upon any part of the Equipment; *provided, however,* that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title, property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied

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

ARTICLE 9. *Reports and Inspections.* On or before March 31 in each year, commencing with the calendar year which begins after the expiration of 120 days from the date of this Agreement, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 10 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Guarantor's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. *Marking of Equipment.* The Vendee will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Annex B hereto, or, in the case of Equipment not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the name of the Vendor followed by the words "Agent, Security Owner" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title to and property in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such name and words shall have been so marked on both sides thereof and

will replace or will cause to be replaced promptly any such name and words which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Vendee may allow the Equipment to be lettered with the names or initials or other insignia customarily used by the Guarantor or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of the rights of the Guarantor or its affiliates to use the Equipment as *permitted under the Lease*.

ARTICLE 11. *Compliance with Laws and Rules.* During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessees' operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration of any unit of the Equipment, or in the event that any equipment or appliance on any such unit shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such unit in order to comply with such laws or rules, the Vendee will make such alterations, changes, replacements and additions at its own expense; *provided, however*, that the Vendee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

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ARTICLE 12. *Possession and Use.* The Vendee, so long as it shall not be in default under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The Vendee may lease the Equipment to the Lessee as permitted by, and for use as provided in, the Lease, but the rights of the Lessee and its permitted assigns (the Lessee hereby so acknowledging) under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement; *provided, however,* that so long as the Lessee shall not be in default under the Lease or under this Agreement in its capacity as Guarantor or otherwise, the Lessee shall be entitled to the possession and use of the Equipment. The Vendee hereby agrees that it will not exercise any of the remedies permitted in the case of an Event of Default under and as defined in the Lease until the Vendor shall have received notice in writing of its intended exercise thereof, and hereby further agrees to furnish to the Vendor copies of all summonses, writs, processes and other documents served by it upon the Lessee or served by the Lessee upon it in connection therewith.

So long as an event of default specified in Article 16 hereof shall not have occurred and be continuing, the Vendee shall be entitled to the possession and use of the Equipment, and the Equipment may be used upon the lines of railroad owned or operated by the Lessee or any affiliate of the Lessee (or any other railroad company approved by the Vendor), or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights, or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and the Equipment may be used upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that the Vendee shall not assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America. The Vendee may also lease the Equipment to any other railroad company with the prior written consent of the Vendor; *provided, however,* that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement, (ii) such lessee shall expressly agree not to assign or permit

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the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States of America and (iii) a copy of such lease shall be furnished to the Vendor.

ARTICLE 13. *Prohibition Against Liens.* The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge, security interest or other encumbrance upon or with respect to the Equipment, or any part thereof, or the interest of the Vendor therein, equal or superior to the Vendor's title thereto or property therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

ARTICLE 14. *Indemnities and Warranties.* The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of

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this Agreement, except however, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the conveyance of security title to, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

ARTICLE 15. *Assignments.* The Vendee will not (a) except as provided in Article 12 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, without limitation, rights and remedies against the Vendee and the Guarantor) and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee without the vendee, assignee or transferee assuming any of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Guarantor hereunder, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Article 14 hereof, or relieve the Vendee or the Guarantor of their respective obligations to the Builder contained or referred to in Articles 2, 3, 4, 6, 8 and 14 hereof and this Article 15, or any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee and the Guarantor, together with a counterpart or copy of such assignment, stating the identity and post office address of the

assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee and the Guarantor, respectively, of the notification of any such assignment, all payments thereafter to be made by the Vendee or the Guarantor under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

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

In the event of any such assignment or successive assignments by the Vendor of title to the Equipment and of the Vendor's rights hereunder with respect thereto, the Vendee will, whenever requested by the assignee, change the markings on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment, such markings to be specified by such assignee, subject to any requirements of the laws of the jurisdictions in which the Equipment shall be operated. The cost of such markings in the event of an assignment of not less than all the Equipment at the time

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covered by this Agreement shall be borne by the Vendee and, in the event of an assignment of less than all such Equipment, such cost shall be borne by such assignee.

The Vendee and the Guarantor will (a) in connection with settlement for the Equipment, deliver to the assignee, at the time of delivery of notice fixing the Closing Date with respect to such Equipment, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to such assignee such number of counterparts or copies of any other certificate or paper required by the Vendor as may reasonably be requested.

If the Builder shall not receive on the Closing Date the aggregate Purchase Price in respect of all of the Equipment proposed to be settled for on such Closing Date, the Builder will promptly notify the Vendee and the Guarantor of such event and, if such amount shall not have been previously paid, the parties hereto will, upon the request of the Builder, enter into an appropriate written agreement with the Builder excluding from this Agreement those units of Equipment whose aggregate Purchase Price shall not have been received, and the Guarantor will, not later than 90 days after such Closing Date, pay or cause to be paid to the Builder the aggregate unpaid Purchase Price of such units, together with interest thereon from such Closing Date to the date of payment by the Guarantor at the highest prime rate of interest of leading New York City banks in effect on such Closing Date.

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

(a) The Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of any provision of this Agreement limiting the liability of the Vendee) and such default shall continue for 16 days; or

(b) The Vendee or the Guarantor shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or

provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) Any proceeding shall be commenced by or against the Vendee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Guarantor or the Vendee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee or the Guarantor under this Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee or the Guarantor, as the case may be, under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Vendee or the Guarantor, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(d) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Guarantor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue); all the obligations of the Guarantor under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

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(e) The Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(f) An event of default shall occur under the Other Agreement or Agreements, if any, referred to and defined in Article 4 hereof;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Guarantor and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the rights of the Lessee set forth in Article 12 hereof, cause the Lease immediately upon such notice to terminate (and the Vendee and the Guarantor each acknowledge the right of the Vendor to terminate the Lease) and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee or the Guarantor wherever situated. The Vendee or the Guarantor, as the case may be, shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Vendee and the Guarantor in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee and the Guarantor that time is of the

essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to the rights of the Lessee set forth in Article 12 hereof, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee or the Guarantor any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Vendee, the Lessee or any other person and for such purpose may enter upon the premises of the Vendee or the Guarantor or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Guarantor, with or without process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points on the lines or premises of the Guarantor for the delivery of the Equipment to the Vendor, the Guarantor shall (subject to the rights of the Lessee set forth in Article 12 hereof), at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points on its lines and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Guarantor until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Guarantor agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor reasonably convenient to the Guarantor. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee and/or the Guarantor requiring specific performance hereof. The Vendee and the Guarantor hereby expressly waive any and all claims against the

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Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Guarantor by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee and the Guarantor may be retained by the Vendor as compensation for the use of the Equipment; *provided, however,* that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; *provided, further,* that if the Vendee, the Guarantor or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon

reasonable notice to the Vendee, the Guarantor and any other persons to whom the law may require notice of the time and place, may, subject to the rights of the Lessee set forth in Article 12 hereof, sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Guarantor or any other party claiming from, through or under the Vendee or the Guarantor at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; *provided, however*, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Vendee and the Guarantor shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. If such sale shall be a private sale, it shall be subject to the rights of the Vendee and the Guarantor to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Vendor may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Vendee or the Guarantor (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor

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

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee or the Guarantor, as the case may be, to the extent of their respective interests therein.

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

The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee and the Guarantor to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

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

ARTICLE 20. *Payment of Expenses.* The Guarantor will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee

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is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the first assignee of the Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

ARTICLE 21. *Article Headings; Effect and Modification of Agreement.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

ARTICLE 24. *Law Governing.* The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Selected Jurisdiction; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 25. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

PART II
MODEL LEASE PROVISIONS

MODEL LEASE PROVISIONS

§ 2. *Delivery and Acceptance of Units.* The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Documents. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery), stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Delivery and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 5. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the name of the Vendor followed by the words "Agent, Security Owner" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Documents. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such name and words shall have been so marked on both sides thereof and will replace promptly any such name and words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documents shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the 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 Lessee may allow the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 6. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States federal income tax [and, to the extent that the Lessor receives credit therefor against its United States federal income tax liability, any foreign income tax] payable by the Lessor in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Documents, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; *provided, however*, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the

Lessor, adversely affect the title, property or rights of the Lessor hereunder or under the Security Documents. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Vendor or otherwise pursuant to Article 6 of the Security Documents not covered by the foregoing paragraph of this §6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said Article 6.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

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

§ 8. *Annual Reports.* On or before March 31 in each year, commencing with the calendar year which begins after the expiration of 120 days from the date of this Lease, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documents, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by §5 hereof and Article 10 of the Security Documents have been preserved or replaced. The Lessor shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§ 9. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have, as Vendee, under the provisions of Article 14 of the Security Documents. The Lessee's delivery of a Certificate of Delivery shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration of any Unit, or in the event that any equipment or appliance on any such Unit shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such Unit in order to comply with such laws or rules, the Lessee will make such alterations, changes, replacements and additions at its own expense; *provided, however*, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documents.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair.

Any and all additions to any Unit (except, in the case of any Unit which is a locomotive, communications, signal and automatic control equipment or devices having a similar use which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documents) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to indemnify, protect and hold harmless the Lessor and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of the Security Documents or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in § 16 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease.

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

§ 11. *Return of Units Upon Default.* If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the

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Units to the Lessor. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith place such Units upon such storage tracks of the Lessee as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee until such Units have been sold, leased or otherwise disposed of by the Lessor; and

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

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

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

§ 12. *Assignment; Possession and Use.* This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively). Whenever the term Lessor is used in this Lease it shall apply and refer to each such assignee of the Lessor.

So long as the Lessee shall not be in default under this Lease or under the Security Documents in its capacity as Guarantor or otherwise, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Security Documents, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The 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 resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as the Lessee shall not be in default under this Lease or under the Security Documents in its capacity as Guarantor or otherwise, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease and the Security Documents; *provided, however,* that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Security Documents) into or with which the Lessee shall have

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become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger or consolidation, be in default under any provision of this Lease.

§ 14. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, the Lessee will (unless the Unit is sold to the Lessee), at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessee may designate, or, in the absence of such designation, as the Lessor may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor; the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection, granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessee a bill of sale or bills of sale transferring to the Lessee, or upon its order, the Lessor's title to and property in any Unit abandoned by it pursuant to the immediately preceding sentence. The Lessee shall have no liability to the Lessor in

respect of any Unit abandoned by the Lessor after termination of the Lease: *provided, however,* that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to § 7 hereof to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence while this Lease is in effect.

§ 15. *Opinion of Counsel.* On each Closing Date (as defined in the Security Documents), the Lessee will deliver to the Lessor two counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor, the Vendor and their respective counsel, to the effect that:

A. the Lessee is a corporation legally incorporated, validly existing and in good standing under the laws of its state of incorporation (specifying the same) with adequate corporate power to enter into the Security Documents and this Lease;

B. the Security Documents and this Lease have been duly authorized, executed and delivered by the Lessee and constitute valid, legal and binding agreements of the Lessee, enforceable in accordance with their respective terms;

C. the Security Documents (and the assignment thereof to the Vendor) and this Lease have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Vendor's and the Lessor's interests in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government is necessary in order to protect the interests of the Vendor or the Lessor in and to the Units;

D. no approval is required from any public regulatory body with respect to the entering into or performance of the Security Document or this Lease;

E. the entering into and performance of the Security Documents or this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Vendor's or Lessor's right, title and interest therein; *provided, however*, that such liens may attach to the rights of the Lessee hereunder in and to the Units.

§ 16. *Recording; Expenses.* The Lessee will cause this Lease, the Security Documents and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documents and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documents or the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Documents shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

The Lessee will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each bear the respective fees and disbursements, if any, of their respective counsel.

PART III
MODEL ASSIGNMENT PROVISIONS
FOR
LEASE TRANSACTIONS

Part III

**MODEL ASSIGNMENT PROVISIONS FOR
LEASE TRANSACTIONS**

SECTION 3. The Builder agrees that it shall construct the Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Vendee in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of the Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement and the rights of the Guarantor under the Lease (as defined in the Conditional Sale Agreement); and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Conditional Sale Agreement; all *subject, however,* to the provisions of the Conditional Sale Agreement and the rights of the Vendee and the Guarantor thereunder. The Builder will not deliver any of the Equipment to the Vendee under the Conditional Sale Agreement until the Conditional Sale Agreement and the Lease have been filed and recorded in accordance with Section 20c of the Interstate Commerce Act (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee or from the Guarantor that such filing and recordation have occurred).

SECTION 4. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any instalment of, or interest on, indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Builder will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Vendee or the Guarantor arising out of a breach by the Builder of any obligation with

respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Guarantor by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 15 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee or the Guarantor in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Vendee or the Guarantor and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee or the Guarantor and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee or the Guarantor with respect to the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 6. The Assignee, on each Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement with respect to the Equipment,

shall pay to the Builder an amount equal to the portion of the purchase price thereof which, under the terms of said Article 4, is payable in instalments, provided that there shall have been delivered to the Assignee (with an executed counterpart to the Vendee), as provided in Article 15 of the Conditional Sale Agreement and at least five business days prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel hereinafter mentioned, in such number of counterparts as may be reasonably requested by said special counsel:

(a) A bill of sale from the Builder to the Assignee transferring to the Assignee title to the units of the Equipment then being settled for under the Conditional Sale Agreement, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the Conditional Sale Agreement, the Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement and the rights of the Guarantor under the Lease, and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the Conditional Sale Agreement;

(b) A Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by Article 3 of the Conditional Sale Agreement and a Certificate or Certificates of Delivery with respect to such units as contemplated by § 2 of the Lease;

(c) A certificate of an officer of the Guarantor to the effect that none of the units of the Equipment was placed in the service of the Guarantor or otherwise was used by the Guarantor prior to delivery and acceptance of such units under the Conditional Sale Agreement and the Lease;

(d) An invoice of the Builder addressed to the Assignee for the units of the Equipment accompanied by or having endorsed thereon a certification by the Vendee and the Guarantor as to the correctness of the prices of such units;

(e) An opinion of Messrs. Shearman & Sterling, who are acting as special counsel for the Assignee and the Investors named in the Finance

Agreement, dated as of such Closing Date, addressed to the Assignee and the Investors stating that (i) the Finance Agreement, assuming due authorization, execution and delivery by such Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the respective parties thereto and is a legal, valid and binding instrument enforceable in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the respective parties thereto and is a legal, valid and binding instrument, enforceable against the Builder in accordance with its terms, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges of the Builder purported to be assigned to it by this Assignment, (v) security title to the units of the Equipment is validly vested in the Assignee and such units, at the time of delivery thereof to the Vendee under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement and the rights of the Guarantor under the Lease), (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the Conditional Sale Agreement or this Assignment, or if any such authority is necessary, it has been obtained, (vii) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia, (viii) no taxes are payable in connection with the execution and delivery of the Finance Agreement, the Conditional Sale Agreement, the Lease or this Assignment and (ix) registration of the Conditional Sale Agreement, this Assignment or the certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended; and such opinion shall also cover such other matters as may reasonably be requested by the Assignee or such Investors;

(f) An opinion of counsel for the Vendee or the beneficial owner of the Equipment, dated as of such Closing Date, stating that the

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Conditional Sale Agreement and the Lease have been duly authorized, executed and delivered by the Vendee and are legal and valid instruments binding upon the Vendee and enforceable against the Vendee in accordance with their terms;

(g) An opinion of counsel for the Guarantor, dated as of such Closing Date and addressed to the Vendee as well as the Assignee, to the effect set forth in clauses (i), (ii), (iii), (v), (vi), (vii) and (viii) of subparagraph (e) above and stating that the Guarantor is a duly organized and existing corporation in good standing under the laws of the jurisdiction of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted;

(h) An opinion of counsel for the Builder, dated as of such Closing Date, to the effect set forth in clauses (iv) and (v) of subparagraph (e) above and stating that (i) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder and is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, and (iii) this Assignment has been duly authorized, executed and delivered by the Builder and is a legal and valid instrument binding upon the Builder; and

(i) A receipt from the Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 6) required to be made on such Closing Date to the Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee.

In giving the opinions specified in subparagraphs (e), (f), (g) and (h) of this Section 6, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinions specified in said subparagraphs (e) and (f), counsel may rely (i) as to authorization, execution and delivery by the Builder of the

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documents executed by the Builder and title to the Equipment at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for the Builder and (ii) to the extent appropriate, as to any matter governed by the law of any jurisdiction other than New York or the United States, on the opinion of counsel for the Builder or the opinion of counsel for the Guarantor as to such matter.

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Agent having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available to make such payment and upon payment by the Vendee of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 4 of the Conditional Sale Agreement. The Assignee shall not be obligated to make any above-mentioned payment at any time while an event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement would constitute an event of default, shall be subsisting under the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

It is understood and agreed that the Assignee shall not be required to make any payment with respect to, and shall have no right or interest in, any Equipment excluded from the Conditional Sale Agreement pursuant to Article 3 thereof.

SECTION 8. The Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Vendee and the Guarantor, the Conditional Sale Agreement is, in so far as the Builder is concerned, a legal, valid and existing agreement binding upon the Builder in accordance with its terms and that it is now in force without amendment thereto;

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

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

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[See Exhibit D to Purchase and Assignment Agreement]

ANNEX D
to
Conditional Sale Agreement

Annex E
to
Conditional Sale Agreement

1 Instalments Number	2 Designation of Certificate of Interest	3 Instalments of Conditional Sale Indebtedness	4 Interest Rate	5 Instalment Payment Dates
1	A	2.44079%	7.500%	6/30/74
2	A	2.53231	7.500	12/30/74
3	A	2.62728	7.500	6/30/75
4	A	2.72580	7.500	12/30/75
5	A	2.82802	7.500	6/30/76
6	A	2.93407	7.500	12/30/76
7	A	3.04410	7.500	6/30/77
8	A	3.15825	7.500	12/30/77
9	A	3.27668	7.500	6/30/78
10	A	3.39956	7.500	12/30/78
11	A	3.52705	7.500	6/30/79
12	B	2.86091	7.900	6/30/80
13	B	2.97392	7.900	12/30/80
14	B	3.09138	7.900	6/30/81
15	B	3.21350	7.900	12/30/81
16	B	3.34043	7.900	6/30/82
17	B	3.47238	7.900	12/30/82
18	B	3.60954	7.900	6/30/83
19	B	3.75211	7.900	12/30/83
20	B	3.90032	7.900	6/30/84
21	B	4.05439	7.900	12/30/84
22	B	4.21454	7.900	6/30/85
23	B	4.38101	7.900	12/30/85
24	B	4.55407	7.900	6/30/86
25	B	4.73396	7.900	12/30/86
26	B	4.92094	7.900	6/30/87
27	B	5.11531	7.900	12/30/87
28	B	5.31738	7.900	6/30/88

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GENERAL ELECTRIC COMPANY
CONDITIONAL SALE AGREEMENT

EXHIBIT B-2

to

Purchase and Assignment Agreement

[CONFORMED COPY]

CONDITIONAL SALE AGREEMENT

Dated as of January 10, 1973

among

GENERAL ELECTRIC COMPANY

as Vendor,

THE FIRST NATIONAL LEASING COMPANY,

as Vendee,

and

MISSOURI PACIFIC RAILROAD COMPANY,

as Guarantor

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on January 22, 1973, at 10:30 A.M., Recordation No. 6868.

EXHIBIT B-2

to

Purchase and Assignment Agreement

CONDITIONAL SALE AGREEMENT dated as of January 10, 1973, among the corporation named in Item 1 of Annex A hereto (hereinafter called the Vendor or Builder as more particularly set forth in Article 25 hereof), MISSOURI PACIFIC RAILROAD COMPANY, a Missouri corporation (hereinafter called the Guarantor or the Lessee) and THE FIRST NATIONAL LEASING COMPANY, a partnership (hereinafter called the Vendee).

WHEREAS, the Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter called the Equipment); and

WHEREAS, the Vendee is executing a lease of the Equipment as of the date hereof to the Lessee in substantially the form annexed hereto as Annex C (hereinafter called the Lease) and the Guarantor is willing to guarantee to the Vendor the due and punctual payment of all sums payable by, and the due and punctual performance of all other obligations of, the Vendee under the Lease Agreement and has joined in this Agreement for the purpose of setting forth the terms and conditions of such guaranty and making certain further agreements as hereinafter set forth:

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

ARTICLE 1. *Incorporation of Model Provisions.* Whenever this Agreement incorporates herein by reference, in whole or in part or as hereby amended, any provision of the document entitled "Model Conditional Sale Provisions for Lease Transactions" annexed to this Agreement as Part I of Annex C hereto (hereinafter called the Model CSA Provisions), such provision of the Model CSA Provisions shall be deemed to be a part of this instrument as fully to all intents and purposes as though such provision had been set forth in full in this Agreement.

ARTICLE 2. *Construction and Sale.* Article 2 of the Model CSA Provisions is herein incorporated as Article 2 hereof.

ARTICLE 3. *Inspection and Delivery.* Article 3 of the Model CSA Provisions is herein incorporated as Article 3 hereof except that there shall be added at the end of the last paragraph thereof the following provisos:

“; *provided, however,* that no delivery of any unit of the Equipment shall be made until this Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act; *provided further,* that Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the filing by or against the Guarantor of a petition for reorganization under Section 77 of the Bankruptcy Act and prior to the assumption, adoption or affirmation of the obligations of the Guarantor under this Agreement by a trustee or trustees acting pursuant to a court order or decree in any proceeding under said Section 77”.

ARTICLE 4. *Purchase Price and Payment.* The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Vendee and the Guarantor. The term “Purchase Price” as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date (as hereinafter defined in this Article) the aggregate of the Invoiced Purchase Prices (as hereinafter defined in this Article) for which settlement has theretofore been and is then being made under this Agreement and the Conditional Sale Agreement referred to in Item 2 of Annex A hereto (hereinafter called the Other Agreement) would, but for the provisions of this sentence exceed the Maximum Purchase Price specified in Annex B hereto (or such higher amount as the Vendee may at its option agree to), the Builder (and any assignee of the Builder) and the Guarantor will, upon request of the Vendee, enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion and any concurrent exclusion under the Other Agreement, reduce such aggregate Invoiced Purchase Prices under both this Agreement and the Other Agreement to not more than the Maximum Purchase Price specified in Annex B hereto (or such higher amount as aforesaid), and the Guarantor agrees to purchase any such unit or units so excluded from this Agreement from the Builder for cash on the date such unit or units would otherwise have been settled for under this Agreement either directly, or, if the Builder

The Guarantor shall mutually agree, by means of a conditional sale, equipment trust or other appropriate method of financing.

The Equipment shall be settled for in such number of groups of units of Equipment delivered to and accepted by the Vendee as is provided in Section 3 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean the date (not earlier than January 30, 1973 and not later than June 20, 1973 such later date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the invoice and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Guarantor, the date shall be fixed by the Guarantor by written notice delivered to the Vendee and the Vendor at least five business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, are authorized or obligated to remain closed.

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

(a) On the Closing Date with respect to each Group (i) an amount equal to 34.08% of the aggregate Purchase Price of such Group plus (ii) the amount by which (x) 65.92% of the Purchase Price of all units of the Equipment covered by this Agreement and the Other Agreement for which settlement has theretofore and is then being made, as set forth in the invoice or invoices therefor (said invoiced prices being herein called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Annex B and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii) and pursuant to clause (ii) of subparagraph (a) of the third paragraph of Article 4 of the Other Agreement (said excess of the amount referred to in clause (x) over the amount referred to in clause (y) being hereinafter called the Excess Amount); *provided, however,* that if settlement is also being made on such Closing Date for units of railroad equipment under the Other Agreement, the amount payable pursuant to clause (ii) of this subparagraph (a) shall be that proportion of the Excess Amount which the Invoiced Purchase Prices

payable on such Closing Date under this Agreement is of the aggregate of all the Invoiced Purchase Prices payable on such Closing Date under this Agreement and the Other Agreement; and

(b) In 28 instalments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

Each instalment of the portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (said portion of the aggregate Purchase Price for such Equipment being herein called the Conditional Sale Indebtedness) shall be in an amount equal to the product of (x) the percentage figures set forth in column 3 of Annex E hereto opposite the number of such instalment set forth in column 1 of Annex E and (y) the aggregate amount of Conditional Sale Indebtedness. The unpaid balance of each instalment of Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate set forth opposite such instalment in column 4 of Annex E and such interest shall be payable, to the extent accrued, on June 30, 1973 and on each succeeding December 30 and June 30 (or if any such date is not a business day, on the next preceding business day; each such succeeding December 30 and June 30 being hereinafter called a Payment Date), up to and including the Payment Date with respect to such instalment as set forth in column 5 of Annex E. Each instalment of Conditional Sale Indebtedness set forth in column 1 of Annex E shall be payable on the Payment Date set forth opposite such instalment in column 5 of Annex E. The Vendee will furnish to the Vendor and the Guarantor promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

The Vendee will pay interest, to the extent legally enforceable, at the rate of 10% per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

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All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The parties hereto contemplate (subject to the limitations set forth in the first paragraph of this Article) that the Vendee will furnish that portion of the Purchase Price for the Equipment as is required under subparagraph (a) of the third paragraph of this Article and that an amount equal to the balance of such Purchase Price (not to exceed the Maximum Conditional Sale Indebtedness specified in Annex B) shall be paid to the Builder by an assignee of the Builder's right, title and interest under this Agreement pursuant to an Agreement and Assignment between the Builder and United States Trust Company of New York, as Agent (such Agreement and Assignment being hereinafter called the Assignment and such Trust Company being herein called the Assignee or the Vendor as indicated in Article 25 hereof).

It is agreed that the obligation of the Vendee to pay to the Vendor any amount required to be paid pursuant to the third paragraph of this Article with respect to the Equipment is specifically subject to the fulfillment, on or before the Closing Date in respect of any Group, of the following conditions (any of which may be waived by the Vendee, and payment by the Vendee of the amount specified in subparagraph (a) of the third paragraph of this Article with respect to such Group shall be conclusive evidence that such conditions have been fulfilled or irrevocably waived):

(a) the Assignee shall have paid or caused to have been paid to the Builder the amounts contemplated to be paid by it as provided in the preceding paragraph of this Article and in Section 6 of the Assignment and the documents required by Section 6 of the Assignment shall have been delivered;

(b) no event of default of the Guarantor specified herein or Event of Default of the Lessee under the Lease, nor any event which with lapse of time and/or demand provided for herein or in the Lease would constitute such an event of default or Event of Default, shall have occurred and be continuing; and

(c) the Vendee shall have received (i) the opinion of counsel required by § 15 of the Lease and (ii) such other documents as the Vendee may reasonably request.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof), it is understood and agreed by the Vendor that the liability of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or the Assignee shall have actually received sufficient "income or proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendor agrees that the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee or the Assignee. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease in so far as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Guarantor and the Equipment and to the Vendor's rights under the Lease against the Lessee and the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (1) if one of the events of default specified in Article 16 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or the Assignee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as hereinafter defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and (b) any and all payments or proceeds received by the Vendee or the Assignee for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of

... sale, lease or other disposition, and (c) any and all other payments received by the Vendee or the Vendor under § 10 of the Lease and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a), (b) and (c) as are indefeasibly received by the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including repayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on, or within six days after, the date such amounts received by the Vendee or the Assignee were required to be paid to pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a), (b) and (c) which were received by the Vendee or the Assignee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on, or within six days after, the Payment Date corresponding to the date on which amounts with respect thereto received by the Vendee or the Assignee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. It is further specifically understood and agreed that nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment or the Guarantor as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5. *Title to the Equipment.* Article 5 of the Model CSA Provisions is herein incorporated as Article 5 hereof.

ARTICLE 6. *Taxes.* Article 6 of the Model CSA Provisions is hereby incorporated as Article 6 hereof.

ARTICLE 7. Maintenance and Repair; Casualty Occurrences; Insurance.
 The Vendee agrees that, at its own cost and expense, it will maintain and keep each unit of the Equipment in good order and repair.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Vendee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the next succeeding Payment Date, the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied to prepay, ratably in accordance with the unpaid balance of each instalment, the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Vendor and the Guarantor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request, calculated as provided in the fourth paragraph of Article 4 hereof.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

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The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of

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The Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in the proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

The Guarantor will at all times prior to the payment of the full purchase price in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at its own expense, cause to be carried and maintained insurance in respect of the Equipment at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Guarantor on equipment owned by it. Such insurance shall be payable to the Vendor, the Vendee and the Guarantor as their interests may appear.

It is further understood and agreed that any insurance proceeds received by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Vendee to the Vendor in respect of Casualty Occurrences pursuant to the second paragraph of this Article. If the Vendor shall receive any other insurance proceeds in respect of insurance carried in respect of such units suffering a Casualty Occurrence after the Vendee shall have made payments pursuant to this Article without deduction for such insurance proceeds, the Vendor shall pay such insurance proceeds to the Vendee. All proceeds of insurance received by the Vendor in respect of insurance carried on any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. *Obligations of Guarantor.* The Guarantor, for value received, hereby unconditionally guarantees to the Vendor by endorsement (through its execution hereof) the due and punctual payment of that portion of the Purchase Price of the Equipment payable pursuant to subparagraph (b) of the third paragraph of Article 4 hereof and interest thereon, and the due and punctual performance of all obligations of the Vendee under this Agreement and unconditionally guarantees to the Vendor that all sums payable by the Vendee under this Agreement (except for the sums payable by the Vendee pursuant to subparagraph (a) of the third paragraph of Article 4 hereof), will be promptly paid when due, together with interest

thereon as herein provided, whether at stated maturity or by declaration or otherwise, and in case of default by the Vendee in any such obligations or payments the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Vendee of any of the rights of the Vendor hereunder.

The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever), irrespective of the genuineness, validity, regularity or enforceability of this Agreement or any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor and irrespective of the last paragraph of Article 4 hereof or any other circumstances which might otherwise limit the recourse of the Vendor to the Vendee. The Guarantor hereby waives diligence, presentment, demand of payment, protest, any notice of any assignment hereof in whole or in part or of any default hereunder and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Vendor of any of its rights hereunder and no action by the Vendor to enforce any of its rights hereunder or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

In the event that the Guarantor shall make any payments to the Vendor on account of its guaranty hereunder, the Guarantor hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Vendee or with respect to any of the units of the Equipment by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Guarantor, *provided, however*, that after the payment by the Guarantor to the Vendor of all sums payable under this Agreement, the Guarantor shall, by subrogation, be entitled to the rights of the Vendor against the Vendee by reason of such payment, to the extent, but only to the extent, that the Vendee has received "income and proceeds from the Equipment" (as defined in Article 4 hereof) and has not applied amounts equal to such income and proceeds to the payment, in accordance with this Agreement and subject to the limitations contained in the last paragraph of said Article 4, of sums payable by the Vendee to the Vendor hereunder.

ARTICLE 9. *Reports and Inspections.* Article 9 of the Model CSA Provisions is herein incorporated as Article 9 hereof. The Guarantor has furnished to the Vendor the audited consolidated balance sheet of the

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Guarantor as of December 31, 1971, the related audited consolidated statement of income and consolidated statement of retained earnings, and the unaudited consolidated statement of income and retained earnings of the Guarantor as of September 30, 1972, and such financial statements correctly set forth the consolidated financial condition of the Guarantor and its consolidated subsidiaries as of said respective dates and the consolidated results of their operations for such periods, and since December 31, 1971 there has been no material adverse change in such condition or results of operations and nothing has occurred which will materially adversely affect the ability of the Guarantor to carry on its business and operations and to perform its obligations under this Agreement. The Guarantor also agrees to furnish to the Vendor in such number as the Vendor shall request (i) as soon as practicable, and in any event within 45 days after the end of each of the first three quarterly periods in each fiscal year of the Guarantor, a consolidated statement of income and a consolidated statement of retained earnings of the Guarantor for the period from the beginning of each fiscal year to the end of such quarterly period, and consolidated balance sheets of the Guarantor as at the end of such quarterly period, setting forth in the case of statements of income, in comparative form, figures for the corresponding period in the preceding fiscal year, all in reasonable detail and certified by an authorized financial officer of the Guarantor, subject to changes resulting from year-end adjustments; and (ii) as soon as practicable and in any event within 120 days after the end of each fiscal year of the Guarantor consolidated statements of income and of retained earnings of the Guarantor for such year, and consolidated balance sheets of the Guarantor as of the end of such year, setting forth in each case, in comparative form, corresponding figures for the preceding fiscal year, all in reasonable detail and certified by independent public accountants.

ARTICLE 10. *Marking of Equipment.* Article 10 of the Model CSA Provisions is herein incorporated as Article 10 hereof, except that nothing contained in such §10 shall prevent the Vendee from allowing the Equipment to be lettered with its name, initials or other insignia.

ARTICLE 11. *Compliance with Laws and Rules.* Article 11 of the Model CSA Provisions is herein incorporated as Article 11 hereof.

ARTICLE 12. *Possession and Use.* Article 12 of the Model CSA Provisions is herein incorporated as Article 12 hereof.

ARTICLE 13. *Prohibition Against Liens.* Article 13 of the Model CSA Provisions is herein incorporated as Article 13 hereof.

ARTICLE 14. *Indemnities and Warranties.* Article 14 of the Model CSA Provisions is herein incorporated as part of Article 14 hereof. The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification contained in Items 4 and 5 of Annex A hereto are herein incorporated as part of this Article.

ARTICLE 15. *Assignments.* Article 15 of the Model CSA Provisions is herein incorporated as Article 15 hereof.

ARTICLE 16. *Defaults.* Article 16 of the Model CSA Provisions is hereby amended by deleting the number "15" in subparagraph (a) thereof and substituting in place thereof the number "5". Article 16 of the Model CSA Provisions, as so amended, is herein incorporated as Article 16 hereof.

ARTICLE 17. *Remedies.* Article 17 of the Model CSA Provisions is herein incorporated as Article 17 hereof.

ARTICLE 18. *Applicable State Laws.* Article 18 of the Model CSA Provisions is herein incorporated as Article 18 hereof.

ARTICLE 19. *Recording.* Article 19 of the Model CSA Provisions is herein incorporated as Article 19 hereof.

ARTICLE 20. *Payment of Expenses.* Article 20 of the Model CSA Provisions is herein incorporated as Article 20 hereof except that references therein to the "Guarantor" shall be deemed to be references to the "Vendee". The Guarantor will pay the reasonable costs and expenses involved in the recording of this Agreement, the first assignment of this Agreement and any amendments thereto as provided in Article 19 hereof.

ARTICLE 21. *Article Headings; Effect and Modification of Agreement.* Article 21 of the Model CSA Provisions is herein incorporated as Article 21 hereof.

ARTICLE 22. *Notice.* Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

- (a) to the Vendee at 510 Locust Street, St. Louis, Missouri 63103.
- (b) to the Guarantor, at 210 North Thirteenth Street, St. Louis, Missouri 63103.

RECEIVED
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MISSOURI
JAN 10 1963

(c) to the Builder, at the address specified in Item 1 of Annex A hereto.

(d) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Guarantor, by such assignee.

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

ARTICLE 23. *Immunities; Satisfaction of Undertakings.* No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, past, present or future, of the Vendee, the Guarantor or the Builder (or Vendor), whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the first paragraph of Article 7 and under Articles 6, 9, 10, 11, 13, 14, the fifth paragraph of Article 15 and 19 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in §§5, 6, 8, 9, 12 and 16 of the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for such obligations under said Articles regardless of whether or not the Lease provides for the discharge of such obligations or is in effect. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

ARTICLE 24. *Law Governing.* Article 24 of the Model CSA Provisions is herein incorporated as part of Article 24 hereof: the term "Selected Jurisdiction" as used therein shall mean the State of Missouri.

ARTICLE 25. *Definitions.* Article 25 of the Model CSA Provisions is herein incorporated as Article 25 hereof.

ARTICLE 26. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an

original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of January 10, 1973, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

GENERAL ELECTRIC COMPANY

[CORPORATE SEAL]

by C. S. BRESSLER
Manager—Marketing
Locomotive Products
Department

Attest:

R. W. O'KEEFE
Attesting Secretary

THE FIRST NATIONAL LEASING
COMPANY,

by RONALD D. PRASSE
Authorized Agent

MISSOURI PACIFIC RAILROAD
COMPANY,

[CORPORATE SEAL]

by M. M. HENNELLY
Vice President

Attest:

G. P. STRELINGER
Assistant Secretary

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STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.:

On this 20th day of January, 1973, before me personally appeared M. M. HENNELLY, to me personally known, who, being by me duly sworn, says that he is a Vice President of MISSOURI PACIFIC RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

R. C. MASON
Notary Public

[NOTARIAL SEAL]

My Commission Expires September 28, 1974.

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.:

On this 20th day of January, 1973, before me appeared Ronald D. Prasse, to me personally known, who being by me duly sworn, did say that he is the authorized agent of The First National Leasing Company, a partnership under the laws of the State of Missouri, and that said instrument was signed on behalf of said partnership by authority of said partnership, and said Ronald D. Prasse acknowledged the said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF I have affixed my hand and seal in the city and state as aforesaid, on the day and year first above stated.

R. C. MASON
Notary Public

[NOTARIAL SEAL]

My Commission Expires September 28, 1974.

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF ERIE } ss.:

On this 19th day of January, 1973, before me personally appeared C. S. BRESSLER, to me personally known, who being by me duly sworn, says that he is the Manager—Marketing—Locomotive Products Department of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

MARGARET M. FREW
Notary Public

[NOTARIAL SEAL]

MARGARET M. FREW, Notary Public
Erie, Erie Co., Pa.
My Commission Expires June 7, 1976

My Commission Expires

Item 1:
Item 2:
Item 3:
Item 4:

**MODEL CONDITIONAL SALE
PROVISIONS FOR LEASE TRANSACTIONS**

[See Part I of Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

Annex A
to
Conditional Sale Agreement

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- Item 1: General Electric Company, a New York corporation having an address at 2901 East Lake Road, Erie, Pennsylvania 16501.
 - Item 2: The Conditional Sale Agreement dated as of January 10, 1973, among the Vendee, the Guarantor and General Motors Corporation (Electro-Motive Division).
 - Item 3: The Equipment shall be settled for in not more than one Group of units of the Equipment delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.
 - Item 4: The Builder warrants that the Equipment will be built in accordance with the Specifications and the standards and requirements referred to in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (hereinafter in this Annex A called the Agreement) and warrants the equipment will be free from defects in material (except as to specialties incorporated therein that are not of the Builder's own specification or design) and workmanship under normal use and service; the Builder's obligations under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which, within two years after the delivery of such unit to the Railroad or before such unit has been in scheduled service 250,000 miles (whichever event shall first occur), shall be returned to the Builder with transportation charges prepaid and which the Builder's examination shall disclose to its satisfaction to have been thus defective.

This warranty of the Builder shall not apply (i) to any locomotive components which shall have been repaired or altered unless repaired or altered by the Builder or its authorized service representatives, if, in its judgment, such repairs or alterations affect the stability of a unit of the Equipment or (ii) to any unit of the Equipment which has been subject to misuse, negligence or accident.

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 THE BUILDER, EXCEPT FOR ITS OBLIGATIONS UNDER THE AGREEMENT. THE BUILDER NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT, EXCEPT AS AFORESAID.

Item 5:

In no event shall the Builder be liable for special or consequential damages. The Builder's liability on any claim of any kind including negligence, or for any loss or damage arising out of, connected with, or resulting from, the Agreement, or from the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any unit of the Equipment covered by, or furnished under, this Agreement, shall in no case exceed the Purchase Price of such unit of the Equipment involved in the claim except as provided in Article 16 of the Agreement, and upon the expiration of the warranty period specified above, except as so provided, all such liability shall terminate. The Builder shall have no liability for any unit of the Equipment or part thereof which becomes defective by reason of improper storage or application, misuse, negligence, accident or improper operation, maintenance, repairs or alterations on the part of the Vendee or any third party other than the Builder. The foregoing warranty shall constitute the sole remedy of the Vendee and the sole liability of the Builder.

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

The Builder further agrees with the Vendee that neither the inspection as provided in the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in the Agreement shall be deemed a waiver or a modification by the Vendee of any of its rights under this Item 4.

Notwithstanding anything to the contrary contained herein, it is understood and agreed that there will be incorporated in each unit of the Equipment a limited number of used components which will be remanufactured by the Builder and will be the equivalent of new components.

Item 5: The Builder shall defend any suit or proceeding brought against the Vendee and/or assignee of the Builder's rights under the Agreement so far as the same is based on a claim that the Equipment of Builder's specification, or any part thereof, furnished under this Agreement constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at the Builder's expense) for the defense of same, and the Builder shall pay all damages and costs awarded therein against the Vendee and/or any such assignee.

The Builder further agrees that, in case the use of any unit of the Equipment or any part thereof is enjoined by a patent infringement suit or claim against the Builder, any assignee of the Builder, the Vendee (other than a suit or claim arising in any way out of an alleged infringement by reason of the use of or incorporation in the Equipment of any device and/or specialty designated by the Vendee to be used by the Builder in the building of the Equipment and which was not manufactured by the Builder), the Builder will promptly, at its own expense and at its option: (i) procure for the Vendee the right to continue using such unit of the Equipment, or part thereof, or (ii) replace the same with a noninfringing unit or part thereof of the same quality and performance as the unit or part so replaced, or (iii) modify such unit of the Equipment, or part thereof, so that it becomes noninfringing and so that such unit or part thereof shall be of the same quality and performance as the unit or part so modified; *provided, however,* that the exercise of any of the foregoing options by the Builder shall not in any way be construed as a waiver of or a limitation on the rights of the Vendee under this Item.

The Builder will not assume liability for patent infringement by reason of purchase, manufacture, sale or use of devices not included in and covered by its specification.

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

Except to the extent the Builder is obligated under this Agreement to indemnify, protect and hold harmless each assignee of any of the rights of the Builder under the Agreement, the Vendee agrees to indemnify, protect and hold harmless each such assignee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against each such assignee because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, article or material which infringes or is claimed to infringe on any patent or other right.

Annex B
to
Conditional Sale Agreement
General Electric Company
Equipment

Estimated Time and Place of Delivery
Jan. 1973 at Eric, Pa.

Lessee's Road Numbers (Both Inclusive)	Quantity	Builder's Plant	Unit Base Price	Total Base Price
MP 668-674	7	Eric, Pa.	\$262,331	\$1,836,317

Type	Builder's Specifications
0 H.P. Model F-23-B GE locomotives	No. 3530-A dated April 1971

The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex B is attached is \$11,529,125. The Maximum Conditional Sale Indebtedness referred to in said Article 4 is \$7,600,000.

ANNEX B
to
Conditional Sale Agreement

MODEL PROVISIONS

- PART I MODEL CONDITIONAL SALE PROVISIONS
- PART II MODEL LEASE PROVISIONS
- PART III MODEL ASSIGNMENT PROVISIONS

PART L
MODEL CONDITIONAL SALE
PROVISIONS FOR LEASE TRANSACTIONS

[See Part I to Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

PART II
MODEL LEASE PROVISIONS

[See Part II to Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

PART II.
MODEL ASSIGNMENT PROVISIONS

[See Part III to Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

LEASE

[See Exhibit D to Purchase and Assignment Agreement]

ANNEA D
to
Conditional Sale Agreement

Annex E
to
Conditional Sale Agreement

1 Instalments Number	2 Designation of Certificate of Interest	3 Instalments of Conditional Sale Indebtedness	4 Interest Rate	5 Instalment Payment Dates
1	A	2.44079%	7.500%	6/30/74
2	A	2.53231	7.500	12/30/74
3	A	2.62728	7.500	6/30/75
4	A	2.72580	7.500	12/30/75
5	A	2.82802	7.500	6/30/76
6	A	2.93407	7.500	12/30/76
7	A	3.04410	7.500	6/30/77
8	A	3.15825	7.500	12/30/77
9	A	3.27668	7.500	6/30/78
10	A	3.39956	7.500	12/30/78
11	A	3.52705	7.500	6/30/79
12	B	2.86091	7.900	6/30/80
13	B	2.97392	7.900	12/30/80
14	B	3.09138	7.900	6/30/81
15	B	3.21350	7.900	12/30/81
16	B	3.34043	7.900	6/30/82
17	B	3.47238	7.900	12/30/82
18	B	3.60954	7.900	6/30/83
19	B	3.75211	7.900	12/30/83
20	B	3.90032	7.900	6/30/84
21	B	4.05439	7.900	12/30/84
22	B	4.21454	7.900	6/30/85
23	B	4.38101	7.900	12/30/85
24	B	4.55407	7.900	6/30/86
25	B	4.73396	7.900	12/30/86
26	B	4.92094	7.900	6/30/87
27	B	5.11531	7.900	12/30/87
28	B	5.31738	7.900	6/30/88

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ANNEX E
to
Conditional Sale Agreement

GENERAL MOTORS CORPORATION
AGREEMENT AND ASSIGNMENT

EXHIBIT C-1

to

Purchase and Assignment Agreement

[CONFORMED COPY]

AGREEMENT AND ASSIGNMENT

Dated as of January 10, 1973

between

GENERAL MOTORS CORPORATION

(Electro-Motive Division)

and

UNITED STATES TRUST COMPANY OF NEW YORK,

as Agent

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on January 22, 1973, at 10:30 A.M., Recordation Number 6867-A.

EXHIBIT C-1

to

Purchase and Assignment Agreement

AGREEMENT AND ASSIGNMENT dated as of January 10, 1973, between the corporation first named following the testimonium below (hereinafter called the Builder), and UNITED STATES TRUST COMPANY OF NEW YORK, with offices at 130 John Street, New York, N. Y. 10038, acting as Agent under a Finance Agreement dated as of January 10, 1973 (hereinafter called the Finance Agreement), said Agent, so acting, being hereinafter called the Assignee.

WHEREAS the Builder, THE FIRST NATIONAL LEASING COMPANY (hereinafter called the Vendee) and MISSOURI PACIFIC RAILROAD COMPANY (hereinafter called the Guarantor) have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment):

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

SECTION 1. Incorporation of Model Provisions. Whenever this Assignment incorporates herein by reference, in whole or in part or as hereby amended, any provision of the document entitled "Model Assignment Provisions for Lease Transactions" annexed to the Conditional Sale Agreement as Part III of Annex C thereto (hereinafter called the Model Assignment Provisions), such provision of the Model Assignment Provisions shall be deemed to be a part of this instrument as fully to all intents and purposes as though such provision had been set forth in full herein.

SECTION 2. The Builder hereby assigns, transfers, and sets over unto the Assignee, its successors and assigns:

(a) All the right, security title and interest of the Builder in and to each unit of the Equipment;

(b) All the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment and the right to receive the payments specified in the third paragraph of Article 3 thereof, in the first paragraph and in

subparagraph (a) of the third paragraph of Article 4 thereof, in the last paragraph of Article 15 thereof and reimbursement for taxes paid or incurred by the Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee or the Guarantor under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee or the Guarantor to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; *provided, however,* that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained in Article 14 of the Conditional Sale Agreement or relieve the Vendee or the Guarantor from their respective obligations to the Builder contained in Articles 2, 3, 4, 6, 8 and 14 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee and the Guarantor with the terms and agreements on their parts to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 3. Section 3 of the Model Assignment Provisions is herein incorporated as Section 3 hereof.

SECTION 4. Section 4 of the Model Assignment Provisions is herein incorporated as Section 4 hereof.

SECTION 5. The Builder will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, at the time of delivery thereof to the Vendee, in letters not less than one inch in height, the following legend:

"UNITED STATES TRUST COMPANY OF NEW YORK, AGENT,
SECURITY OWNER".

SECTION 6. Section 6 of the Model Assignment Provisions is herein incorporated as Section 6 hereof, except that "(i)" contained in subparagraph (g) of the first paragraph thereof shall be deleted, the opinion of Messrs. Shearman & Sterling referred to therein shall also be addressed to the Interim Lender under the Finance Agreement, and in giving the opinion specified in subparagraph (e) of the first paragraph thereof, Messrs. Shearman & Sterling may rely as to authorization, execution and delivery by the Vendee of the documents executed by the Vendee on the opinion of counsel for the Vendee.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee or the Guarantor thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 15 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 8. Section 8 of the Model Assignment Provisions is herein incorporated as Section 8 hereof.

SECTION 9. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York; *provided, however,* that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment

shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of the Equipment.

SECTION 10. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of January 10, 1973, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

by HAROLD L. SMITH
Vice President

[CORPORATE SEAL]

Attest:

W. H. THOMAS
Assistant Secretary

UNITED STATES TRUST COMPANY
OF NEW YORK, as Agent,

by MALCOLM J. HOOD
Assistant Vice President

[CORPORATE SEAL]

Attest:

G. MARTEN
Assistant Secretary

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this 19th day of January, 1973, before me personally appeared HAROLD L. SMITH, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

J. G. SAWYER
Notary Public

[NOTARIAL SEAL]

My Commission Expires October 28, 1975

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 18th day of January, 1973, before me personally came MALCOLM J. HOOD, to me known, who, being by me duly sworn, did depose and say that he resides at 6 Angus Lane, Warren N. J.; that he is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the trustees of said corporation; and that he signed his name thereto by like order.

THOMAS B. ZAKRZEWSKI
Notary Public

[NOTARIAL SEAL]

THOMAS B. ZAKRZEWSKI
Notary Public, State of New York
No. 24-9820331
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1974

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of January 10, 1973.

THE FIRST NATIONAL LEASING COMPANY

by RONALD D. PRASSE
Authorized Agent

MISSOURI PACIFIC RAILROAD COMPANY,

by M. M. HENNELLY
Vice President

**MODEL ASSIGNMENT PROVISIONS
FOR
LEASE TRANSACTIONS**

[See Part III of Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

GENERAL ELECTRIC COMPANY
AGREEMENT AND ASSIGNMENT

EXHIBIT C-2
to
Purchase and Assignment Agreement

[CONFORMED COPY]

AGREEMENT AND ASSIGNMENT

Dated as of January 10, 1973

between

GENERAL ELECTRIC COMPANY

and

UNITED STATES TRUST COMPANY OF NEW YORK,
as Agent

Filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act on January 22, 1973, at 10:30 A.M., Recordation Number 6868-A.

EXHIBIT C-2

to

Purchase and Assignment Agreement

AGREEMENT AND ASSIGNMENT dated as of January 10, 1973, between the corporation first named following the testimonium below (hereinafter called the Builder), and UNITED STATES TRUST COMPANY OF NEW YORK, with offices at 130 John Street, New York, N. Y. 10038, acting as Agent under a Finance Agreement dated as of January 10, 1973 (hereinafter called the Finance Agreement), said Agent, so acting, being hereinafter called the Assignee.

WHEREAS the Builder, THE FIRST NATIONAL LEASING COMPANY (hereinafter called the Vendee) and MISSOURI PACIFIC RAILROAD COMPANY (hereinafter called the Guarantor) have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

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

SECTION 1. *Incorporation of Model Provisions.* Whenever this Assignment incorporates herein by reference, in whole or in part or as hereby amended, any provision of the document entitled "Model Assignment Provisions for Lease Transactions" annexed to the Conditional Sale Agreement as Part III of Annex C thereto (hereinafter called the Model Assignment Provisions), such provision of the Model Assignment Provisions shall be deemed to be a part of this instrument as fully to all intents and purposes as though such provision had been set forth in full herein.

SECTION 2. The Builder hereby assigns, transfers, and sets over unto the Assignee, its successors and assigns:

- (a) All the right, security title and interest of the Builder in and to each unit of the Equipment;
- (b) All the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment and the right to receive the payments specified in the third paragraph of Article 3 thereof, in the first paragraph and in

subparagraph (a) of the third paragraph of Article 4 thereof, in the last paragraph of Article 15 thereof and reimbursement for taxes paid or incurred by the Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee or the Guarantor under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee or the Guarantor to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; *provided, however*, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained in Article 14 of the Conditional Sale Agreement or relieve the Vendee or the Guarantor from their respective obligations to the Builder contained in Articles 2, 3, 4, 6, 8 and 14 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee and the Guarantor with the terms and agreements on their parts to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 3. Section 3 of the Model Assignment Provisions is herein incorporated as Section 3 hereof.

SECTION 4. Section 4 of the Model Assignment Provisions is herein incorporated as Section 4 hereof.

SECTION 5. The Builder will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, at the time of delivery thereof to the Vendee, in letters not less than one inch in height, the following legend:

"UNITED STATES TRUST COMPANY OF NEW YORK, AGENT,
SECURITY OWNER".

SECTION 6. Section 6 of the Model Assignment Provisions is herein incorporated as Section 6 hereof, except that "(i)" contained in subparagraph (g) of the first paragraph thereof shall be deleted, the opinion of Messrs. Shearman & Sterling referred to therein shall also be addressed to the Interim Lender under the Finance Agreement, and in giving the opinion specified in subparagraph (e) of the first paragraph thereof, Messrs. Shearman & Sterling may rely as to authorization, execution and delivery by the Vendee of the documents executed by the Vendee on the opinion of counsel for the Vendee.

SECTION 7. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee or the Guarantor thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 15 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 8. Section 8 of the Model Assignment Provisions is herein incorporated as Section 8 hereof.

SECTION 9. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York; *provided, however,* that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment

shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of the Equipment.

SECTION 10. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of January 10, 1973, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

GENERAL ELECTRIC COMPANY

by C. S. BRESSLER
Manager—Marketing
 Locomotive Products
 Department

[CORPORATE SEAL]

Attest: R. W. O'KEEFE
 Attesting Secretary

UNITED STATES TRUST COMPANY
 OF NEW YORK, as Agent,

by MALCOLM J. HOOD
Assistant Vice President

[CORPORATE SEAL]

Attest: G. MARTEN
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF ERIE } ss.:

On this 19th day of January, 1973, before me personally appeared C. S. BRESSLER, to me personally known, who, being by me duly sworn, says that he is the Manager—Marketing—Locomotive Products Department of GENERAL ELECTRIC COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

MARGARET M. FREW
Notary Public

MARGARET M. FREW, Notary Public
Erie, Erie Co., Pa.
My Commission Expires June 7, 1976

[NOTARIAL SEAL]

My Commission Expires

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 18th day of January, 1973, before me personally came MALCOLM J. HOOD, to me known, who, being by me duly sworn, did depose and say that he resides at 6 Angus Lane, Warren, N. J.; that he is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, one of the corporations described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the trustees of said corporation; and that he signed his name thereto by like order.

THOMAS B. ZAKRZEWSKI
Notary Public

THOMAS B. ZAKRZEWSKI
Notary Public, State of New York
No. 24-9820331
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1974

[NOTARIAL SEAL]

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of January 10, 1973.

THE FIRST NATIONAL LEASING COMPANY

by RONALD D. PRASSE
Authorized Agent

MISSOURI PACIFIC RAILROAD COMPANY,

by M. M. HENNELLY
Vice President

MODEL ASSIGNMENT PROVISIONS

[See Part III to Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

LEASE

EXHIBIT D
to
Purchase and Assignment Agreement

[CONFORMED COPY]

LEASE OF RAILROAD EQUIPMENT

Dated as of January 10, 1973

between

MISSOURI PACIFIC RAILROAD COMPANY,
Lessee

and

THE FIRST NATIONAL LEASING COMPANY,
Lessor

Filed and recorded with the Interstate Commerce Commission pursuant to
Section 20c of the Interstate Commerce Act on January 22, 1973, at 10:30 A.M.,
Recordation No. 6869.

EXHIBIT D
to
Purchase and Assignment Agreement

LEASE OF RAILROAD EQUIPMENT dated as of January 10, 1973, between MISSOURI PACIFIC RAILROAD COMPANY, a Missouri corporation (hereinafter called the Lessee), and THE FIRST NATIONAL LEASING COMPANY, a partnership (hereinafter called the Lessor).

WHEREAS, the Lessor and the Lessee have entered into two Conditional Sale Agreements dated as of the date hereof (hereinafter called the Security Documents), with GENERAL MOTORS CORPORATION (Electro-Motive Division) and GENERAL ELECTRIC COMPANY, respectively (hereinafter called the Builders), wherein the Builders have agreed to manufacture, sell and deliver to the Lessor the railroad equipment described in Schedule A hereto;

WHEREAS, the Builders have assigned or will assign their respective interests in the Security Documents to UNITED STATES TRUST COMPANY OF NEW YORK, as Agent (hereinafter, together with its successors and assigns, referred to as the Vendor); and

WHEREAS, the lessee desires to lease all the units of said equipment, or such lesser number (hereinafter called the Units) as are delivered and accepted and settled for under the Security Documents on or prior to June 20, 1973 (hereinafter called the Cut-Off Date), at the rentals and for the terms and upon the conditions hereinafter provided;

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

§ 1. *Incorporation of Model Provisions.* Whenever this Lease incorporates herein by reference, in whole or in part or as hereby amended, any provision of the document entitled "Model Lease Provisions" annexed to the Security Documents as Part II of Annex C thereto (hereinafter called the Model Lease Provisions), such provision of the Model Lease Provisions shall be deemed to be a part of this instrument as fully to all intents and purposes as though such provision had been set forth in full in this Lease.

§ 2. *Delivery and Acceptance of Units.* § 2 of the Model Lease Provisions is herein incorporated as § 2 hereof.

§ 3. *Rentals.* The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease (i) for the period from the Closing Date (as defined in Article 4 of the Security Document pursuant to which such Unit is being acquired by Lessor) for such Unit to June 30, 1973, an amount equal to .0142278% of the Purchase Price (as defined in the Security Document pursuant to which such Unit is being acquired by Lessor) of each Unit for each day elapsed from the Closing Date for settlement of such Unit to and including June 29, 1973 due and payable on June 30, 1973, and (ii) through the balance of the lease term remaining after the period described in (i) above, payable in arrears in 62 equal quarter-annual instalments on September 30, December 30, March 30 and June 30 in each year commencing with September 30, 1973, an amount equal to 2.08500% of the Purchase Price of each such Unit.

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The Lessor irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments provided for in this Lease in immediately available funds (including but not limited to the payments required under § 7 hereof) for the account of the Lessor, c/o United States Trust Company of New York, 130 John Street, New York, N. Y. 10038 on or before 11 o'clock a. m. New York City time on the date upon which payments are due and payable. Such payments shall be applied by the Vendor to satisfy the obligations of the Lessor under the Security Documents due and payable on the date such payments are due hereunder and, so long as no event of default under the Security Documents shall have occurred and be continuing, any balance shall be paid to the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Documents, including the Lessee's rights by subrogation under Article 8 thereof, or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or 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 the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 4. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final quarter-annual payment of rent in respect thereof is due pursuant to § 3.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, or under the Security Documents in its capacity as Guarantor or otherwise, are subject to the rights of the Vendor under the Security Documents. If an event of default should occur under the Security Documents, the Vendor may terminate this Lease (or rescind its termination), all as provided therein, unless the Lessee is not so in default under this Lease or under the Security Documents.

§ 5. *Identification Marks.* § 5 of the Model Lease Provisions is herein incorporated as § 5 hereof.

§ 6. *Taxes.* § 6 of the Model Lease Provisions is herein incorporated as § 6 hereof.

§ 7. *Payment for Casualty Occurrences; Insurance.* In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessor or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice, the Lessee shall pay to the Lessor the rental payment due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit.

The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite such rental payment date:

<u>Rental Payment Date</u>	<u>Percentage</u>	<u>Rental Payment Date</u>	<u>Percentage</u>
9/30/73	105.2971	3/30/81	66.8527
12/30/73	105.1122	6/30/81	65.4989
3/30/74	104.9272	9/30/81	64.1451
6/30/74	104.9517	12/30/81	62.6702
9/30/74	104.9761	3/30/82	61.1952
12/30/74	104.2246	6/30/82	59.7323
3/30/75	103.4731	9/30/82	58.2693
6/30/75	103.0511	12/30/82	56.6889
9/30/75	102.6290	3/30/83	55.1084
12/30/75	101.9450	6/30/83	53.5383
3/30/76	101.2610	9/30/83	51.9682
6/30/76	100.6547	12/30/83	50.2896
9/30/76	100.0483	3/30/84	48.6110
12/30/76	94.4715	6/30/84	46.9357
3/30/77	93.6931	9/30/84	45.2603
6/30/77	92.9147	12/30/84	43.4854
9/30/77	92.1363	3/30/85	41.7105
12/30/77	91.1408	6/30/85	39.9315
3/30/78	90.1453	9/30/85	38.1525
6/30/78	89.2080	12/30/85	36.3514
9/30/78	88.2706	3/30/86	34.5502
12/30/78	82.4278	6/30/86	32.6671
3/30/79	81.3454	9/30/86	30.7840
6/30/79	80.2630	12/30/86	28.8379
9/30/79	79.1805	3/30/87	26.8918
12/30/79	77.9283	6/30/87	24.9720
3/30/80	76.6761	9/30/87	23.0521
6/30/80	75.4602	12/30/87	21.0703
9/30/80	74.2442	3/30/88	19.0885
12/30/80	68.2065	6/30/88	17.7257
		9/30/88	16.3628
		12/30/88 and thereafter	15.0000

Except as hereinabove in this § 7 provided, the 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 after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained insurance in respect of the Units at the time subject hereto, and public liability insurance in amounts and against risks customarily insured against by railroad companies or similar equipment, and in any event in amounts and against risks comparable to those insured against by the Lessee on equipment owned by it and the benefits thereof shall be payable as provided in the Security Documents. Any net insurance proceeds as the result of insurance carried by the Lessee received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 7. If the Lessor shall receive any such net insurance proceeds or condemnation payments after the Lessee shall have made payments pursuant to this § 7 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor.

§ 8. *Annual Reports.* § 8 of the Model Lease Provisions is herein incorporated as § 8 hereof.

§ 9. *Disclaimer of Warranties; Compliance with Documents and Rules; Maintenance; and Indemnification.* § 9 of the Model Lease Provisions is herein incorporated as § 9 hereof.

The Lessor and the Lessee represent and warrant to the Vendor, severally and not jointly, that neither the Lessor nor the Lessee nor any other person acting on their behalf has directly or indirectly offered any of the Certificates of Interest or any similar evidence of indebtedness for sale to, or solicited offers to buy any of the same from, or otherwise approached or negotiated with respect thereto with, anyone other than the Investors and not more than four other institutional investors.

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

A. default shall be made in payment of any part of the rental provided in § 3 hereof and such default shall continue for five days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

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

D. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Security Documents under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or under the Security Documents), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and under the Security Documents shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Security Documents and this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by

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such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(F) any warranty or representation in §17 hereof shall be or become untrue or incorrect;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on a basis of a rate of 3.25% per annum, discount, compounded quarterly, from the

respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, calculated on the assumption that the Lessor's Federal, state and local taxes computed by reference to net income or excess profits are based on a 48% effective Federal tax rate and the highest effective state and local income tax and/or excess profit tax rates generally applicable to the Lessor, including therein the effect of any applicable surtax, surcharge and/or other tax or charge related thereto, and deducting from any such Federal tax 48% of the amount of any such state and local tax (such rates as so calculated being hereinafter in this Agreement called the Assumed Rates) shall be equal to the following:

(A) an amount equal to any portion of the 7% investment credit with respect to the Purchase Price of the Units as provided in Section 38 and related Sections of the Internal Revenue Code of 1954, as amended (hereinafter called the Investment Credit), lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of the Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default; plus

(B) such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return (taxes being calculated at the Assumed Rates) under this Lease to be equal to the net return (taxes being calculated at the Assumed Rates) that would have been available to the Lessor if the Lessor had been entitled to take a deduction (hereinafter called the Class Life Deduction) in respect of the depreciation of each Unit over an 11-year life down to a net depreciated value equal to 0% of the Purchase Price under regulations to be prescribed by the Secretary of the Treasury or his

delegate under Section 167(m) of the Internal Revenue Code of 1954, as amended, which Class Life Deduction was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of (i) the failure of said Secretary to permit a Class Life Deduction to the extent described above, or (ii) the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of this Lease, or (iii) the termination of this Lease, the Lessee's loss of the right to use such Unit, or (iv) any action or inaction by the Lessor or (v) the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default; plus

(C) an amount equal to the interest and penalty assessed against the Lessor by the United States based on disallowance in whole or in part for any taxable year of the Investment Credit contemplated in paragraph (A) above or the Class Life Deduction contemplated in paragraph (B) above.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

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

§ 11. *Return of Units Upon Default.* § 11 of the Model Lease Provisions is herein incorporated as § 11 hereof.

§ 12. *Assignment, Possession and Use.* § 12 of the Model Lease Provisions is herein incorporated as § 12 hereof.

§ 13. *Purchase and Renewal Options.* Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the

Lessee may by written notice delivered to the Lessor not less than six months prior to the end of the original term of this Lease or any extended term hereof, as the case may be, elect (a) to extend the term of this Lease in respect of all, but not fewer than all, of such Units then covered by this Lease, for one additional five-year period commencing on the scheduled expiration of the original term of this Lease at a "Fair Market Rental" payable in 20 quarter-annual payments on March 30, June 30, September 30, and December 30 in each year, commencing three months after the final quarter-annual rental payment for the original term is due and (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of the original or any extended term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term.

Fair Rental Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four months prior to the expiration of the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value of the Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four months prior to the

expiration of the original term of this Lease, in case of an extension thereof, or of the original or the extended term of this Lease, in the case of a purchase of the Units, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

Upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

§ 14. *Return of Units upon Expiration of Term.* § 14 of the Model Lease Provisions is herein incorporated as § 14 hereof.

§ 15. *Opinion of Counsel.* § 15 of the Model Lease Provisions is herein incorporated as § 15 hereof.

§ 16. *Recording; Expenses.* § 16 of the Model Lease Provisions is herein incorporated as § 16 hereof, except that the reference in the first sentence of the last paragraph thereof to the "Lessee" shall be deemed to be a reference to the "Lessor". The Lessee will pay the reasonable costs and expenses involved in the recording of this Lease.

§ 17. *Federal Income Taxes.* Lessee represents, warrants and agrees that the Lessor, as the owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal

Revenue Code of 1954, as amended from time to time, and the regulations thereunder (hereinafter called the Code) to an owner of property, including (without limitation) the Investment Credit and the Class Life Deduction (as defined in § 10 of this Lease), with respect to the Units and the Lessor shall be entitled to deductions for any interest payments made pursuant to the Security Documents.

Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. Lessee agrees to keep and make available for inspection and copying by Lessor such records as will enable Lessor to determine whether it is entitled to the full benefit of the Investment Credit and the Class Life Deduction with respect to the Units.

Lessee represents, warrants and agrees that (i) none of the Units constitutes property the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 167(c)(2) of the Code from commencing with Lessor; (iii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code; and (iv) at the time Lessor becomes the owner of the Units, and at all times during the term of this Lease, each Unit will constitute property eligible for the Class Life Deduction.

The rental in § 3 has been computed on the assumption that the asset depreciation period of the Units for Federal income tax purposes is 11 years, that the Units may be depreciated down to 0% of the Purchase Price over said 11-year period and that a 7% investment credit will be allowed with respect to the Purchase Price of the Units; in the event that Lessor shall not be permitted to use such period but shall be permitted to use an asset depreciation period of 12 years and elects to do so, the figure of 2.08500% in § 3 shall instead be deemed to be 2.10860% as of the commencement of the term of this Lease, and Lessee will pay to Lessor any difference in the two amounts, together with interest at the rate of 7.90% per annum from the date

of each rental payment to the date of such payment plus interest and penalties, if any, assessed by the United States on any deficiency in Federal income taxes arising in whole or in part from the disallowance of such 11 year asset depreciation period; and in the event that Lessor shall not be permitted to use an asset depreciation period of 12 years, then the rental provided for in § 3 shall be increased to the extent necessary to cause Lessor's net return (taxes being calculated at the Assumed Rates) under this Lease to be equal to the net return (taxes being calculated at the Assumed Rates) that would have been available to the Lessor if it had been allowed to depreciate the Units over an 11-year life.

In the event an investment credit of 7% on the full Purchase Price of each Unit is disallowed in whole or in part by the United States, then the rental payments provided in § 3 hereof shall be increased to the extent necessary to cause the Lessor's net return (taxes being calculated at the Assumed Rates) under this Lease to be equal to the net return (taxes being calculated at the Assumed Rates) that would have been available to the Lessor if the 7% investment credit had been allowed in full.

§ 18. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 10% per annum of the overdue rentals for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

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

(a) if to the Lessor, at c/o First National Bank in St. Louis, 510 Locust Street, St. Louis, Missouri 63101, Attn: Ronald D. Prasse, Vice President.

(b) if to the Lessee, at 210 North Thirteenth Street, St. Louis, Missouri 63103

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

§ 20. *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 the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and of the Lessee.

§ 21. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of January 10, 1973, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Missouri, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

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

THE FIRST NATIONAL LEASING COMPANY,

by RONALD D. PRASSE
Authorized Agent

MISSOURI PACIFIC RAILROAD COMPANY,

by M. M. HENNELLY
Vice President

[CORPORATE SEAL]

Attest:

G. P. STRELINGER
Assistant Secretary

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.:

On this 19th day of January, 1973, before me appeared Ronald D. Prasse, to me personally known, who being by me duly sworn, did say that he is the authorized agent of The First National Leasing Company, a partnership under the laws of the State of Missouri, and that said instrument was signed on behalf of said partnership by authority of said partnership, and said Ronald D. Prasse acknowledged the said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF I have affixed my hand and seal in the city and state as aforesaid, on the day and year first above stated.

CATHERINE T. BEERMANN
Notary Public

CATHERINE T. BEERMANN
Notary for the City of St. Louis
and adjoining Counties

[NOTARIAL SEAL]

My Commission Expires March 31, 1975.

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.:

On this 19th day of January, 1973, before me personally appeared M. M. HENNELLY, to me personally known, who, being by me duly sworn, says that he is a Vice President of MISSOURI PACIFIC RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

R. C. MASON
Notary Public

R. C. MASON
Notary Public, City of St. Louis, Mo.

[NOTARIAL SEAL]

My Commission Expires September 28, 1974.

Schedule A
to Lease

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Road Numbers (Both Inclusive)	Unit Base Price	Total Base Price	Estimated Time and Place of Delivery
2000 H.P. G.P. 38-2 EMD Locomotives	No. 8090 dated January 3, 1972, as amended by specification No. 8090-3, dated January 3, 1972	La Grange, Illinois	37	MP 923-959	\$251,200	\$9,294,400	Jan-June, 1973 at McCook, Ill
2250 H.P. Model U-23-B GE Locomotives	No. 3530-A dated April 1971	Eric, Pa.	7	MP668-674	262,331	1,836,317	Jan, 1973 at Eric, Pa.
			44			\$11,130,717	

SCHEDULE A
to
Lease

9/16/72
at Eric, Pa.

MODEL LEASE PROVISIONS

[See Part II to Annex C to General Motors Corporation Conditional Sale Agreement
Attached as Exhibit B-1 to Purchase and Assignment Agreement]

BILL OF SALE

EXHIBIT E

to

Purchase and Assignment Agreement

BILL OF SALE

To Purchaser: TXL ASTRA CORPORATION VI

The First National Leasing Company ("Seller"), pursuant to that certain Agreement for the Purchase and Sale of Locomotives and Assignment of Lease dated as of January 3, 1985 (the "Purchase and Assignment Agreement") by and between Seller and TXL ASTRA CORPORATION VI ("Purchaser"), and in consideration of the payment of the sum of One Dollar and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, hereby sells and transfers to Purchaser all of Seller's rights, title and interests in and to the locomotives listed and described in Schedule I attached hereto (the "Locomotives"), to have and to hold the same unto Purchaser, its successors and assigns forever. Seller and Purchaser agree that the sale of the Locomotives evidenced by this Bill of Sale shall be deemed to have taken place in the state of Missouri. All terms not otherwise defined herein shall have the respective meanings specified in the Purchase and Assignment Agreement.

Warranties:

- (1) Seller represents and warrants to Purchaser and Purchaser's successors and assigns that Seller is the lawful owner of the Locomotives and has good, valid and marketable title thereto, free from, and clear of, any charge, lien, encumbrance or other claim or interest whatsoever, except for the rights and interests therein of the Lessee under the Lease and except for the rights, security title and interests therein of the Agent under the Conditional Sale Agreements, as assigned by the Amendments and Assignments.
- (2) Seller represents and warrants to Purchaser and Purchaser's successors and assigns that Seller has not executed any other bill of sale or other instrument which by its express terms purported to transfer title to the Locomotives or any interest in, or with respect to, the Locomotives to any other person or entity, except to the Lessee under the Lease and except to the extent title was retained by the Manufacturers under the Conditional Sale Agreements, which were assigned to the Agent pursuant to the Agreements and Assignments.
- (3) Seller agrees to indemnify and defend Purchaser and Purchaser's successors and assigns from, and against, any claims of others or liabilities arising from Seller's breach of the any of the warranties set forth herein.

SELLER BY THIS BILL OF SALE MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE DESIGN, VALUE, OPERATION, OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN, THE LOCOMOTIVES. SELLER BY THIS BILL OF SALE MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE LOCOMOTIVES FOR ANY PARTICULAR PURPOSE OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT TO THE LOCOMOTIVES WHATSOEVER, EXCEPT AS IS SET FORTH SPECIFICALLY IN PARAGRAPHS 1 AND 2 ABOVE. SELLER SHALL IN NO EVENT BE RESPONSIBLE FOR DAMAGE ARISING IN STRICT LIABILITY OR FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING.

EXHIBIT E

to

Purchase and Assignment Agreement

IN WITNESS WHEREOF, Seller has caused this instrument to be executed in its name by a duly authorized representative this _____ day of January, 1985.

THE FIRST NATIONAL LEASING COMPANY,
a Missouri general partnership

By: Grantor Trust for the Benefit of
CENTERRE BANK NATIONAL
ASSOCIATION, f/k/a FIRST NATIONAL
BANK IN ST. LOUIS, and FIRST OF ST.
LOUIS LEASING CORPORATION NO. 1

By: _____
Charles Teachenor, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

-And-

By: Grantor Trust for the Benefit of
COMMERCE BANK OF ST. LOUIS
COUNTY, f/k/a ST. LOUIS COUNTY
NATIONAL BANK

By: _____
Rodney F. Hill, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

LIST AND
DESCRIPTION OF LOCOMOTIVES

Description and <u>Quantity</u>	Lessee Road <u>Road Numbers</u>
Thirty-seven 2,000 Horsepower Model GP 38-2 Diesel Electric Locomotives Manufactured by General Motors Corporation (Electro-Motive Division)	MP 2074-2110 (Formerly MP 923-959; Anticipated to be changed to MP 7074- 7110)
Seven 2,250 Horsepower Model U-23-B Diesel Electric Locomotives Manufactured by General Electric Company	MP 4500-4506 (Formerly MP 668-674)

ASSUMPTION
OF
CONDITIONAL SALE INDEBTEDNESS

EXHIBIT F

to

Purchase and Assignment Agreement

**ASSUMPTION OF
CONDITIONAL SALE INDEBTEDNESS**

THIS ASSUMPTION OF CONDITIONAL SALE INDEBTEDNESS (the "CSA Indebtedness") by and between TXL ASTRA Corporation VI ("Purchaser") and The First National Leasing Company ("Seller") is entered into on this ___ day of January, 1985, pursuant to that certain Agreement for the Purchase and Sale of Locomotives and Assignment of Lease dated as of January 3, 1985 (the "Purchase and Assignment Agreement") by and between Purchaser and Seller. All terms not otherwise defined herein shall have the respective meanings in the Purchase and Assignment Agreement. Purchaser and Seller hereby agree as follows:

1. Purchaser hereby assumes, and undertakes to perform, and shall perform as the party primarily responsible and liable, all of Seller's obligations and liabilities arising on and after the Closing Date (a) under those two Conditional Sale Agreements dated as of January 10, 1973 (the "Conditional Sale Agreements"), each by and between one of the manufacturers of the Locomotives, Seller and the Lessee, both of which have been assigned by the manufacturers to United States Trust Company of New York, as agent (the "Agent") pursuant to those two Agreements and Assignments dated as of January 10, 1973, each by and between one of the manufacturers and the Agent, and subject to all of the limitations upon the repayment thereof, including, but not limited to, the terms of the last paragraph of Article 4 thereof, set forth in the Conditional Sale Agreements, and (b) for repayment of the CSA Indebtedness created under the Conditional Sale Agreements.

2. Seller hereby assigns, transfers, sells and sets over to Purchaser all of Seller's rights, title and interests in, to and under the Conditional Sale Agreements arising on and after the Closing Date.

3. Seller hereby warrants: (a) that the Conditional Sale Agreements are in full force and effect, all payments thereunder are current (including, but not limited to, the installment of CSA Indebtedness payable on December 30, 1984), and, to the best of Seller's knowledge, there is no event of default (as defined in the Conditional Sale Agreements) thereunder, or event, which, with the lapse of time or notice, or both, would become an event of default thereunder, (b) that the Conditional Sale Agreements have not been amended or modified, and neither Seller nor any party acting on behalf of, for the benefit of or as trustee for Seller has waived any of its rights thereunder or otherwise consented to any action or inaction thereunder by the Agent that would have been inconsistent with the terms of the Conditional Sale Agreements, (c) all of Seller's rights in, to or with respect to the CSA Indebtedness and all of Seller's obligations (and the obligations of any party acting on behalf of, for the benefit of or as trustee for the Seller) to the Agent, or to any party for whom the Agent is an agent or whom the Agent represents, with respect to the Locomotives or the CSA Indebtedness, are set forth in no other agreements, instruments or documents other than the Conditional Sale Agreements, (d) Seller has not failed to perform any of its obligations in respect to the CSA Indebtedness or under the Conditional Sale Agreements and (e) the CSA Indebtedness remaining unpaid under the Conditional Sale Agreements on the Closing Date, is \$2,392,701.45, payable, together with interest thereon, in arrears in seven equal semi-annual installments of \$397,910.78 each, on June 30 and December 30 of each year, commencing on June 30, 1985.

EXHIBIT F

to

Purchase and Assignment Agreement

4. Purchaser shall indemnify Seller and the Guarantors, and hold Seller and the Guarantors harmless, from and against any claim or liability arising on or after the Closing Date, including any liability to the Agent or to any party for whom the Agent is an agent or whom the Agent represents, by reason of the failure of Purchaser to comply with any of its obligations under this Assumption of CSA Indebtedness, the Purchase and Assignment Agreement or any other agreement or document entered into or delivered in connection herewith or therewith.

IN WITNESS WHEREOF, the parties hereto have caused this Assumption of CSA Indebtedness to be executed by officers thereunto duly authorized on the day and year first above written.

THE FIRST NATIONAL LEASING COMPANY,
a Missouri general partnership

TXL ASTRA CORPORATION VI

By: Grantor Trust for the Benefit of
CENTERRE BANK NATIONAL
ASSOCIATION, f/k/a FIRST
NATIONAL BANK IN ST. LOUIS,
and FIRST OF ST. LOUIS LEASING
CORPORATION NO. 1

By: _____

Title: _____

By: _____
Charles Teachenor, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

-And-

By: Grantor Trust for the Benefit of
COMMERCE BANK OF ST. LOUIS
COUNTY, f/k/a ST. LOUIS COUNTY
NATIONAL BANK

By: _____
Rodney F. Hill, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

ASSIGNMENT
OF
LEASE

EXHIBIT G

to

Purchase and Assignment Agreement

**ASSIGNMENT
OF
LEASE**

THIS ASSIGNMENT OF LEASE is executed and delivered by The First National Leasing Company (the "Assignor") to TXL ASTRA CORPORATION VI (the "Assignee") on this ___ day of January, 1985, pursuant to that certain Agreement for the Purchase and Sale of Locomotives and Assignment of Lease dated as of January 3, 1985 (the "Purchase and Assignment Agreement") by and between the Assignor and the Assignee. All terms not otherwise defined herein shall have the respective meanings in the Purchase and Assignment Agreement.

The Assignor hereby assigns, transfers and sets over unto the Assignee, its successors and assigns that certain Lease of Railroad Equipment dated as of January 10, 1973 (the "Lease"), a complete and current copy of which is attached hereto as Attachment I, and all of Assignor's rights, title and interests, powers, privileges, and other benefits as lessor under the Lease, including, but not limited to, the right to receive all rent payable on and after the date hereof.

The Assignor hereby warrants and represents to the Assignee and its successors and assigns as follows:

1. The Assignor is the lessor of the Locomotives and has all of the rights, title and interests of the lessor under the Lease, free from, and clear of, any charge, lien encumbrance or other claim or interest whatsoever, but subject, as set forth in the Lease, to the rights of the Agent under the Conditional Sale Agreements, as assigned by the Agreements and Assignments.

2. The Lease is in full force and effect, all amounts payable thereunder are current (including, but not limited to, the installment of rent payable on December 30, 1984), and, to the Assignor's knowledge, there is no Event of Default (as defined in the Lease) thereunder, or event or condition, which, with the lapse of time or notice, or both, would become an Event of Default thereunder.

3. The Lease has not been amended or modified, and neither the Assignor nor any party acting on behalf of, for the benefit of or as trustee for the Assignor has waived any of its rights thereunder or otherwise consented to any action or inaction thereunder by the Lessee that would have been inconsistent with the terms of the Lease.

4. All of the Lessee's rights in, to or with respect to the Locomotives, and all of the Assignor's obligations (and the obligations of any party acting on behalf of, for the benefit of or as trustee for the Assignor) to the Lessee with respect to the Locomotives are set forth in no agreement, instrument or document other than the Lease.

5. The Assignor has not failed to perform any of its obligations under the Lease.

6. The rent remaining unpaid under the Lease on the Closing Date is \$3,684,355.36, payable in arrears in 16 equal quarterly installments of \$230,272.21 each on March 30, June 30, September 30 and December 30 of each year, commencing on March 30, 1985.

EXHIBIT G

to

Purchase and Assignment Agreement

7. The Assignee shall indemnify the Assignor and the Guarantors, and hold the Assignor and the Guarantors harmless, from and against any claim or liability, including any liability to the Lessee, arising on or after the Closing Date by reason of the failure of the Assignee to comply with any of its obligations under this Assignment of Lease, the Assumption of CSA Indebtedness, the Purchase and Assignment Agreement or any other agreement or document entered into or delivered in connection herewith or therewith.

IN WITNESS WHEREOF, the Assignor has caused this Assignment of Lease to be executed by an officer thereunto duly authorized, all on the date first above written.

THE FIRST NATIONAL LEASING COMPANY,
a Missouri general partnership

By: Grantor Trust for the Benefit of
CENTERRE BANK NATIONAL
ASSOCIATION, f/k/a FIRST NATIONAL
BANK IN ST. LOUIS, and FIRST OF ST.
LOUIS LEASING CORPORATION NO. 1

By: _____
Charles Teachenor, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

-And-

By: Grantor Trust for the Benefit of
COMMERCE BANK OF ST. LOUIS
COUNTY, f/k/a ST. LOUIS COUNTY
NATIONAL BANK

By: _____
Rodney F. Hill, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

LEASE

[See Exhibit D to Purchase and Assignment Agreement]

ATTACHMENT I
to
Assignment of Lease

FINANCE AGREEMENT

EXHIBIT H

to

Purchase and Assignment Agreement

[COMPOSITE CONFORMED COPY]

FINANCE AGREEMENT

Dated as of January 10, 1973

among

UNITED STATES TRUST COMPANY OF NEW YORK,
as Agent,

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION,
Interim Lender,

and

THE PARTIES NAMED IN SCHEDULE A HERETO,
Investors

MISSOURI PACIFIC RAILROAD COMPANY

[Covering 44 Locomotives]

EXHIBIT H
to
Purchase and Assignment Agreement

FINANCE AGREEMENT dated as of January 10, 1973, among UNITED STATES TRUST COMPANY OF NEW YORK, as Agent (hereinafter called the Agent), BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION (hereinafter called the Interim Lender) and the parties named in Schedule A hereto (hereinafter collectively sometimes called the Investors).

THE FIRST NATIONAL LEASING COMPANY (hereinafter called the Vendee) and MISSOURI PACIFIC RAILROAD COMPANY (hereinafter called the Guarantor) have entered into two conditional sale agreements, one with GENERAL MOTORS CORPORATION (Electro-Motive Division) and the other with GENERAL ELECTRIC COMPANY (hereinafter called the Builders), dated as of the date hereof (hereinafter called the Conditional Sale Agreements), each substantially in the form annexed hereto as Exhibit A, for the purchase of the new standard-gauge railroad equipment referred to in the Conditional Sale Agreements (hereinafter called the Equipment).

The Agent is willing to acquire, pursuant to two agreements and assignments dated as of the date hereof (hereinafter called the Assignments), in substantially the form annexed hereto as Exhibit B, the right, security title and interest of the Builders under the Conditional Sale Agreements in the units of the Equipment, all upon and subject to the terms and conditions hereinafter set forth.

The Vendee proposes to lease the units of the Equipment to the Guarantor pursuant to a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), substantially in the form annexed as Annex D to the Conditional Sale Agreements.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto hereby agree as follows:

1. (a) Provided that the Agent shall have received the delivery papers to be delivered by the Vendee, the Builders and the Guarantor in accordance with the Conditional Sale Agreements and the related Assignments in form and substance satisfactory to it and Shearman & Sterling, acting as special counsel for the Agent and the Investors, and subject to the provisions of subparagraph (b) of this Paragraph, each Investor will deposit with the

Agent, in immediately available funds, no later than 11:00 A. M., New York City time, on each Closing Date specified pursuant to Article 4 of the Conditional Sale Agreements ("Closing Date"), an amount (such Investor's "Participation"), as specified by the Agent, equal to the product of (x) the percentage set forth in Column 3 of Schedule A opposite such Investor's name and (y) an amount equal to the Conditional Sale Indebtedness (as such term is defined in the Conditional Sale Agreements) in respect of the Equipment being settled for on such Closing Date; *provided, however*, that the aggregate amount of such Investors' Participation shall not in any case exceed the amount set forth in Column 4 of Schedule A opposite such Investor's name.

(b) In lieu of the payments by the Investors listed opposite certificates of interest B in Schedule A hereto provided in subparagraph (a) of this Paragraph, the Interim Lender will deposit with the Agent, in immediately available funds, no later than 11:00 A.M., New York City time, on each Closing Date, the amount of such Investor's Participation. Upon such payment, the Agent will execute and deliver to the Interim Lender a certificate of interest with respect to each such amount substantially in the form of Exhibit C, dated such Closing Date and containing the appropriate information with respect to each Investor in lieu of which the Interim Lender is making such payment as set forth in Schedule A hereto, including the designation of such certificate with the letter set forth opposite such Investor's name in Column 2 of Schedule A.

(c) On September 28, 1973 (the "Takeout Date") each Investor listed opposite certificates of interest B in Schedule A hereto will purchase, by depositing immediately available funds, no later than 11:00 A.M., New York City time, with the Agent, and the Interim Lender will sell, without recourse or warranty, the interest of the Interim Lender hereunder and under the Conditional Sale Agreements acquired by the Interim Lender by reason of the payments made by the Interim Lender pursuant to subparagraph (b) of this Paragraph in lieu of such Investor, at a price equal to the balance of the Conditional Sale Indebtedness in respect thereof remaining on the Takeout Date plus interest accrued thereon to but excluding the Takeout Date; *subject, however*, to fulfillment of the following conditions:

(i) no event of default specified in Article 16 of either Conditional Sale Agreement shall have occurred and be continuing on the Takeout

Date and such Investors shall have received certificates to such effect, dated the Takeout Date, of an authorized officer of the Guarantor and of the Agent (limited, in the case of the Agent, to actual knowledge); and

(ii) no change shall have occurred since the date of execution and delivery hereof in the laws and regulations of each jurisdiction to which such Investor is subject which would prohibit the purchase of the interest in the Conditional Sale Indebtedness to be acquired by such Investor.

On the Takeout Date, the Interim Lender will surrender to the Agent all certificates of interest acquired by it pursuant to subparagraph (b) of this Paragraph, upon payment in immediately available funds to the Interim Lender of the purchase price therefor pursuant to this subparagraph (c), and the Agent will execute and deliver to each Investor making payment (or, upon the written request of such Investor, to the nominee or nominees of such Investor) a new certificate or certificates of interest, dated July 1, 1973, and bearing the same interest rate and similarly designated as the certificate of interest surrendered by the Interim Lender and in an amount equal to the interest in the Conditional Sale Indebtedness acquired from the Interim Lender.

*See Section 2
debt repayment
scheduled by
C.R.S.*

(d) The Agent will give to the Interim Lender and each Investor written notice of each Closing Date and of the amount of each deposit to be made by or on behalf of such Investor at least five business days prior to such Closing Date. The Agent will give to each Investor listed opposite certificate of interest B in Schedule A hereto written notice of the amount to be paid by such Investor to the Interim Lender pursuant to subparagraph (c) of this Paragraph at least ten business days prior to the Takeout Date. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York are authorized or obligated to remain closed. All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months. Each holder of a certificate of interest, simultaneously with the final payment to it of all amounts payable under such certificate, will surrender such certificate to the Agent.

As soon as practicable after the delivery of any certificate of interest, the Agent will deliver to the holder a schedule of payments reflecting the dates and amounts of principal and interest payments to be made under such certificate.

2. Pursuant to the Assignments the Agent will acquire from each Builder all its right, security title and interest under its Conditional Sale Agreement, except as specifically excepted by such Assignments.

The forms of the Exhibits annexed to this Agreement are hereby approved by the Interim Lender and the Investors; *provided, however*, that any substantial modifications of such forms shall have been approved in writing by the Interim Lender and the Investors prior to the execution thereof.

3. The Agent will hold the rights under the Conditional Sale Agreements acquired under the Assignment, security title to the Equipment following its delivery and acceptance thereunder, as provided in the Assignments and the Conditional Sale Agreements, and any payments received by it pursuant to the Lease, including any certificate of deposit referred to in Paragraph 4 or the proceeds therefrom, in trust for the benefit of the holders of certificates of interest in accordance with their respective interests therein as such interests from time to time shall appear. The interests of the holders of certificates of interest shall be in proportion to their respective investments in the aggregate Conditional Sale Indebtedness, plus accrued and unpaid interest from time to time outstanding. It is expressly understood and agreed that the obligations of the Agent hereunder as such title holder and with respect to the payments to the holders of certificates of interest to be made by the Agent are only those expressly set forth herein.

4. So long as, to the actual knowledge of the Agent, no event of default under the Conditional Sale Agreements or Event of Default under the Lease or event which with passage of time or giving of notice, or both, would become such an event of default or Event of Default (any such default, event of default, Event of Default or event being hereinafter called a "Default") shall have occurred and be continuing, the Agent shall, if so requested by the Vendee, and provided the Vendee shall not have failed to make due and punctual payment of any prior certificate of deposit here-

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whichever referred to, invest each payment of rent received by it in discharge of the Lessee's obligations pursuant to §3 of the Lease to make the rental payments due on March 30 and September 30 in each year in a non-interest bearing certificate of deposit issued by First National Bank in St. Louis in the amount of such payment of rent and maturing on the business day next preceding the date the next payment is required to be made on the Conditional Sale Indebtedness.

Upon each delivery to Vendee under a Conditional Sale Agreement of a Group (as therein defined) of the Equipment and the receipt by the Agent of the delivery papers with respect thereto to be delivered by the Vendee, the Builder and the Guarantor in accordance with such Conditional Sale Agreement and the related Assignment, the Agent will promptly deliver one counterpart or copy of each such paper to each Investor who shall request the same and to Shearman & Sterling.

After receipt by the Agent of the delivery papers in form and substance satisfactory to it and Shearman & Sterling, with respect to each Group as aforesaid, the Agent will on each Closing Date pay to the Builder under such Conditional Sale Agreement in accordance with the related Assignment (and subject to the conditions specified in Section 6 thereof) out of moneys deposited with the Agent pursuant to Paragraph 1 hereof an amount equal to the Conditional Sale Indebtedness with respect to such Group.

5. The Agent will accept all sums paid to it pursuant to Article 7 of the Conditional Sale Agreements with respect to Casualty Occurrences (as therein defined) and the Agent will apply such sums to the *pro rata* prepayment of each of the instalments of the Conditional Sale Indebtedness remaining unpaid (in proportion to the principal amount of Conditional Sale Indebtedness represented by each such instalment), without premium, together with interest accrued on such prepaid Conditional Sale Indebtedness from the last date on which such interest was paid to the date of such prepayment. The Agent will furnish to each holder of a certificate of interest a revised schedule or schedules of payments showing the reduction of such holder's interest in the instalments of the aggregate Conditional Sale Indebtedness remaining unpaid and the interest payable thereon.

6. The Agent will accept payments made to it by the Vendee pursuant to each Conditional Sale Agreement and the related Assignment, on account of the principal of or interest on the Conditional Sale Indebtedness thereunder and will apply such payments promptly to the payment first, of interest payable to each holder of a certificate of interest on their respective interests in the Conditional Sale Indebtedness, and second, of their respective interests in the instalments of Conditional Sale Indebtedness in the order of maturity thereof until the same shall have been paid in full.

Notwithstanding anything to the contrary contained herein, if a Declaration of Default (as defined in either Conditional Sale Agreement) is in effect under either Conditional Sale Agreement, all moneys held by or coming into the possession of the Agent hereunder or under the Conditional Sale Agreements applicable to the payment or prepayment of Conditional Sale Indebtedness or interest thereon (including, without limitation, the net proceeds of any repossession and sale or lease of any unit of the Equipment after deduction of all expenses, including reasonable counsel fees, incurred by the Agent in connection with such repossession and sale or lease or otherwise hereunder in connection with the Conditional Sale Agreements and the Assignments which shall not theretofore have been reimbursed to the Agent by the Vendee or the Guarantor pursuant to the Conditional Sale Agreements) immediately shall be distributed by the Agent *pro rata* among the holders of certificates of interest in accordance with their respective interests in the Conditional Sale Indebtedness at the time of such distribution and the Agent shall otherwise take such action as is referred to in Paragraph 7 hereof.

All payments to be made by the Agent hereunder shall (subject to timely receipt by the Agent of available funds) be made by check mailed to the holders of certificates of interest on the date such payment is due or, upon written request of any holders of certificates of interest, by bank wire of immediately available funds to such Investor at such address as may be specified to the Agent in writing.

7. So long as, to the actual knowledge of the Agent, no Default shall have occurred and be continuing, the Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights or taking or refraining from taking any action which may be vested in it, or which it may be entitled to assert or take, hereunder or under the

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Conditional Sale Agreements, except as otherwise specifically provided herein. The Agent shall not incur any liability hereunder or otherwise in acting upon any notice, certificate or other paper or instrument believed by it to be genuine and signed by the proper party or parties, or with respect to anything which it may do or refrain from doing in the exercise of its best judgment, or which may seem to it to be necessary or desirable in the premises, except liability resulting from its own willful misconduct or gross negligence; *provided, however*, that in case the Agent shall have actual knowledge of the occurrence of a Default, it shall promptly notify the Vendee and the Investors, and, so long as it shall hold any certificate of interest, the Interim Lender, thereof and shall take such action and assert such rights under the Conditional Sale Agreements as shall be agreed upon by the holders of certificates of interest totaling more than 50% of the aggregate Conditional Sale Indebtedness then outstanding and the Agent shall be indemnified by such holders in proportion to their respective interests in the aggregate Conditional Sale Indebtedness then outstanding against any liability or expenses, including reasonable counsel fees, in connection with taking such action or asserting such rights.

The Agent may consult with legal counsel of its own choice, and shall not be under any liability for any action taken or suffered in good faith by it in accordance with the opinion of such counsel.

8. The Interim Lender and each Investor represents that it is acquiring its interest in the Conditional Sale Indebtedness for its own account, or for the account of one or more pension or trust funds, for investment and not with a view to, or for sale in connection with, the distribution of the same, nor with any present intention of distributing or selling the same, but subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be within its control; *provided, however*, that the foregoing is subject to the provisions of Paragraph 1. The Interim Lender and each Investor if acquiring a participation in the Conditional Sale Indebtedness for the account of one or more pension or trust funds, with respect to which it does not have sole investment discretion, represents that it has full power to make the foregoing representation on behalf of each such pension or trust fund for which it is acting.

The Interim Lender and each Investor understands that its interest in the Conditional Sale Indebtedness has not been registered under the

Securities Act of 1933 because the transaction is exempt from the registration requirements of said Act pursuant to Section 4(2) thereof and that such interest must be held indefinitely (except as provided in the first sentence of this Paragraph 8) unless a subsequent disposition thereof is registered under said Act or is exempt from registration.

The Interim Lender and each Investor hereby agrees that any transfer by it of all or any part of its interest in the Conditional Sale Indebtedness shall be upon the express condition that the transferee thereof shall be bound by the terms of this Agreement. Prior to any such transfer (other than a transfer contemplated by the proviso to the first sentence of this Paragraph 8) the Interim Lender or such Investor shall notify the Agent in writing thereof and the Agent shall cause to be prepared and delivered to the Interim Lender or such Investor an appropriate agreement, to be entered into among the Interim Lender or such Investor, such transferee and the Agent, evidencing such transfer upon the terms hereof.

9. The Agent will promptly mail or deliver one counterpart or copy of all notices, statements, documents or schedules received by it from the Vendee or the Guarantor pursuant to the Conditional Sale Agreements or the Assignments to each Investor who shall have requested the same in writing and, so long as it shall hold any certificate of interest, the Interim Lender if it shall so request in writing.

10. All notices, instructions, directions and approvals to be delivered hereunder to the Agent by the Interim Lender or the Investors shall be in writing signed by an officer, assistant officer, manager or assistant manager of the Interim Lender or each respective Investor, as the case may be, and the Agent may rely on any notice, instruction, direction or approval so signed. The Agent shall be entitled to reimbursement for its costs and expenses in acting under this Agreement in accordance with Article 20 of the Conditional Sale Agreements.

11. The Agent does not make any representation or assume any responsibility with respect to (i) the validity of the Conditional Sale Agreements, the Lease, the Assignments or any certificate of interest (except with respect to its own execution thereof) or any of the matters covered thereby or (ii) the value of or the title to the Equipment.

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12. In the event of any dispute with respect to the delivery or ownership or right to possession of funds or documents at any time held by the Agent hereunder, or with respect to title to any unit of the Equipment, the Agent is hereby authorized and directed to retain, without liability to anyone, all or any of such funds or documents and title to such unit of the Equipment until such dispute shall have been settled either by agreement of the holders of certificates of interest or by final order, decree or judgment of a court of competent jurisdiction.

13. All documents and funds deliverable hereunder to the Agent shall be delivered to it at its address at 130 John Street, New York, N. Y. 10038, attention of Corporate Trust and Agency Division, or as the Agent may otherwise specify. All documents and funds deliverable hereunder to the Interim Lender and the Investors shall be delivered or mailed to them at their respective addresses set forth in the signature pages hereof, or as any of them may otherwise specify. All documents deliverable hereunder to Shearman & Sterling shall be delivered to it at 53 Wall Street, New York, New York 10005, Attn.: John C. Bullitt.

14. The terms of this Agreement and all rights and obligations of the parties hereto hereunder shall be governed by the laws of the State of New York. Such terms, rights and obligations may not be changed orally, but may be changed only by an agreement in writing signed by the party against whom enforcement of such change is sought.

15. The Agent shall be entitled to terminate its duties and responsibilities hereunder by giving written notice to the Investors and, so long as it shall hold any certificate of interest, the Interim Lender, that it desires to terminate such duties and responsibilities on a date (at least 30 days subsequent to the giving of such notice) stated in said notice; it being understood and agreed that the Agent shall also give such notice if it is directed so to do by the holders of interests totaling more than 50% of the aggregate Conditional Sale Indebtedness then outstanding. If, prior to the date stated in said notice, the holders of interests totaling more than 50% of the aggregate Conditional Sale Indebtedness then outstanding shall have requested in writing that the Agent assign to a person or institution designated by such holders all right, security title and interest of the Agent under the Conditional Sale Agreements and the Assignments and in and to

the Equipment, the Agent shall comply with such request. In the event that such request is not received by the Agent on or before the date designated in said notice, the Agent shall be entitled to appoint a successor to act hereunder (which successor shall be a bank or trust company located in the Borough of Manhattan, City and State of New York, having capital and surplus aggregating at least \$50,000,000) and to assign to such successor, subject to the provisions of this Agreement, all such right, security title and interest of the Agent. Upon such assignment by the Agent to a person or institution designated by such holders or, in the absence of such designation to a successor appointed by the Agent, the Agent shall thereupon be relieved of all duties and responsibilities hereunder.

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16. This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties so long as each counterpart shall be signed by the Agent and by one or more of the Investors or the Interim Lender and so long as the Interim Lender and each Investor shall sign at least one counterpart which shall be delivered to the Agent.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by duly authorized officers or other persons, as of the date first above written.

UNITED STATES TRUST COMPANY OF NEW YORK,
as Agent,

By MALCOLM J. HOOD
Assistant Vice President

BANK OF AMERICA NATIONAL TRUST AND SAVINGS
ASSOCIATION
Bank of America Center
Box 37070
San Francisco, California 94137
Attn: National Division—Leasing

By WILLIAM F. WARD
Title: Vice President

COMMONWEALTH LIFE INSURANCE COMPANY
c/o Capital Holding Corporation
Post Office Box 1085
Louisville, Kentucky 40201
Attn: Securities Department

By STEWART L. SHRADER
Title: Second Vice President—Investments

PEOPLES LIFE INSURANCE COMPANY,
WASHINGTON, D. C.
c/o Capital Holding Corporation
Post Office Box 1085
Louisville, Kentucky 40201
Attn: Securities Department

By H. E. TIPTON
Title: Vice President & Treasurer

NATIONAL TRUST LIFE INSURANCE COMPANY
c/o Capital Holding Corporation
Post Office Box 1085
Louisville, Kentucky 40201
Attn: Securities Department

By STEWART L. SHRADER
Title: Second Vice President—Investments

PALMETTO STATE LIFE INSURANCE COMPANY
c/o Capital Holding Corporation
Post Office Box 1085
Louisville, Kentucky 40201
Attn: Securities Department

By STEWART L. SHRADER
Title: Second Vice President—Investments

NATIONAL STANDARD LIFE INSURANCE COMPANY
c/o Capital Holding Corporation
Post Office Box 1085
Louisville, Kentucky 40201
Attn: Securities Department

By STEWART L. SHRADER
Title: Second Vice President—Investments

COUNTRY LIFE INSURANCE COMPANY
1701 Towanda Avenue
Bloomington, Illinois 61701
Attn: Manager—Investment Department

By C. H. FLANDERS
Title: Assistant Treasurer

INDIANAPOLIS LIFE INSURANCE COMPANY
2960 North Meridian Street
Indianapolis, Indiana 46208
Attn: Mr. Donald S. Lawhorn
Vice President and Treasurer

by D. S. LAWHORN
Title: Vice President and Treasurer

WOODMEN ACCIDENT AND LIFE COMPANY
1526 K Street
Lincoln, Nebraska 68508
Attn: W. S. Henrion
Senior Vice President and Treasurer

By W. S. HENRION
Title: Senior Vice President and Treasurer

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Schedule A

to

Finance Agreement

1 Name	2 Designation of Certificate of Interest	3 Percentage of Aggregate Investment	4 Maximum Investment
Bank of America National Trust and Savings Association.....	A	32.49393%	\$2,469,539
Commonwealth Life Insurance Company.....	B	23.62713	1,795,662
People's Life Insurance Com- pany.....	B	13.50121	1,026,091
National Trust Life Insurance Company.....	B	4.05037	307,828
Palmetto State Life Insurance Company.....	B	3.37530	256,522
National Standard Life Insur- ance Company.....	B	2.70024	205,218
Country Life Insurance Com- pany.....	B	10.12591	769,570
Indianapolis Life Insurance Company.....	B	6.75061	513,047
Woodmen Accident and Life Company.....	B	3.37530	256,523
		<u>100.00000%</u>	<u>\$7,600,000</u>

SCHEDULE A
to
Finance Agreement

FORM
OF
CONDITIONAL SALE AGREEMENT

[See Exhibits B-1 and B-2 to Purchase and Assignment Agreement]

EXHIBIT A
to
Finance Agreement

FORM
OF
ASSIGNMENT AND AGREEMENT

[See Exhibits C-1 and C-2 to Purchase and Assignment Agreement]

EXHIBIT B
to
Finance Agreement

EXHIBIT C
to
Finance Agreement

CERTIFICATE OF INTEREST*

UNITED STATES TRUST COMPANY OF NEW YORK (hereinafter called the Agent), hereby acknowledges receipt from

(hereinafter called the Investor) of \$ such sum having been paid by the Investor under and pursuant to the terms and conditions of a Finance Agreement dated as of January 10, 1973 (hereinafter called the Finance Agreement), among the Agent, [the Interim Lender referred to therein.]** the Investor and the other investors referred to therein. By reason of such payment the Investor has an interest in a principal amount equal to such sum (i) in the two Conditional Sale Agreements dated as of January 10, 1973 (hereinafter called the Conditional Sales Agreements), among THE FIRST NATIONAL LEASING COMPANY, MISSOURI PACIFIC RAILROAD COMPANY (hereinafter called the Guarantor) and GENERAL MOTORS CORPORATION (Electro-Motive Division) and GENERAL ELECTRIC COMPANY, respectively (hereinafter called the Builders), (ii) in the related Agreements and Assignments of the Conditional Sale Agreements each dated as of January 10, 1973 between the Builders and the Agent, (iii) in the right, security title and interest of the Agent in and to the railroad equipment covered by the Conditional Sale Agreements and (iv) in and to all cash and other property from time to time held by the Agent under the Finance Agreement, except to the extent that instalments of such principal amount shall have been paid.

Under the terms of the Conditional Sale Agreements, subject to the rights of prepayment contained therein in the event of a Casualty Occurrence (as defined therein), and in the Finance Agreement (i) such principal amount is payable***, (ii) such principal amount bears interest from the

* A letter, A or B, will be inserted, determined in accordance with Paragraph 1 of the Finance Agreement.

** Bracketed language will not appear in Certificates of Interest designated B delivered to the Interim Lender.

*** In Certificate of Interest designated A, the following will be inserted: "in eleven consecutive semi-annual instalments on June 30 and December 30 of each year, commencing June 30, 1974 to and including June 30, 1979". In Certificate of Interest designated B, the following will be inserted: "in seventeen consecutive semi-annual instalments on June 30 and December 30 of each year, commencing June 30, 1980 to and including June 30, 1988".

date hereof, payable semi-annually, on the unpaid portion thereof from time to time outstanding, commencing June 30, 1973, and on each December 30 and June 30 thereafter, until such principal amount shall have been paid in full, at * % per annum, (iii) all such principal and interest remaining unpaid after the same shall have become due and payable bears interest at the rate of 10% per annum. The Agent has furnished or promptly will furnish to the Investor a schedule of payments reflecting the dates and amounts of principal and interest payments to be made under this Certificate of Interest. All payments received by the Agent in accordance with the terms of the Finance Agreement and the Conditional Sale Agreements shall be disbursed by the Agent in accordance with the terms and conditions of the Finance Agreement.

This Certificate of Interest may only be transferred in accordance with Paragraph 8 of the Finance Agreement.

Dated:

UNITED STATES TRUST COMPANY OF
NEW YORK, as Agent under the
Finance Agreement,

By
Authorized Officer

INQUIRY SHOULD BE MADE OF THE AGENT
IF CERTIFICATION AS TO BALANCE DUE
HEREUNDER IS REQUIRED

* Fill in applicable rate for designated Certificate of Interest from column 4 of Annex E to Conditional Sale Agreements.

NOTICE
OF
SALE OF LOCOMOTIVES
AND
ASSIGNMENT OF LEASE

EXHIBIT 1
to
Purchase and Assignment Agreement

**NOTICE
OF
SALE OF LOCOMOTIVES
AND
ASSIGNMENT OF LEASE**

To: Missouri Pacific Railroad Company
210 North Thirteenth Street
St. Louis, Missouri 63103

Subj: (a) Forty-four Diesel Electric Locomotives, Consisting of 37 2,000 Horsepower Model GP 38-2 Locomotives Manufactured by General Motors Corporation, Electro-Motive Division, with Inclusive Road Numbers MP 2074-2110 (formerly MP 923-959; anticipated to be changed to MP 7074-7110), and seven 2,250 Horsepower Model U-23-B Locomotives Manufactured by General Electric Company with Inclusive Road Numbers MP 4500-4506 (formerly MP 668-674) (the "Locomotives").

(b) Lease of Railroad Equipment dated as of January 10, 1973 (the "Lease") by and between The First National Leasing Company, as lessor (the "Lessor"), and the Missouri Pacific Railroad Company, as lessee (the "Lessee").

Please be advised that the Lessor has, subject to the rights of the Lessee under the Lease and of the United States Trust Company of New York, as agent, sold, assigned, conveyed and transferred all of its rights, title and interests in and to the Locomotives and the Lease to TXL ASTRA CORPORATION VI ("TXL").

Please be further advised that, effective immediately, but subject to the rights of the United States Trust Company of New York, as agent, all payments and notices required to be made or given by the Lessee under the Lease to the Lessor should be made or given to the accounts or addresses, as the case may be, specified in the Lease, and TXL shall have all of the rights of lessor under the Lease.

**THE FIRST NATIONAL LEASING COMPANY,
a Missouri general partnership**

By: Grantor Trust for the Benefit of
CENTERRE BANK NATIONAL
ASSOCIATION, f/k/a FIRST NATIONAL
BANK IN ST. LOUIS, and FIRST OF ST.
LOUIS LEASING CORPORATION NO. 1

By: _____
Charles Teachenor, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

EXHIBIT I

to

Purchase and Assignment Agreement

By: Grantor Trust for the Benefit of
COMMERCE BANK OF ST. LOUIS
COUNTY, f/k/a ST. LOUIS COUNTY
NATIONAL BANK

By: Rodney F. Hill, as Trustee
Under Trust Agreement Dated
As of January 1, 1973

EXHIBIT 2 TO SECURITY AGREEMENT

[Form of Renewal Note]

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE TRANSFERRED IN VIOLATION OF SUCH ACT AND THE RULES AND REGULATIONS THEREUNDER.

_____% SECURED NOTE DUE MARCH 20, 1994

TXL ASTRA CORPORATION VI, a California corporation (the "Company"), for value received, hereby promises to pay to THE PHILADELPHIA SAVING FUND SOCIETY, or registered assigns, in installments as hereinafter provided, the original principal sum of _____

(\$ _____). The Company further promises to pay to the registered holder hereof, as hereinafter provided, interest on the unpaid principal amount hereof (as such principal amount may be increased by the addition of accrued and unpaid interest thereon) from the date hereof to maturity at the rate of _____ percent a year.

Interest accrued on this Note, to the extent not paid, shall be added to principal on the 30th day of each March, June, September and December and, when so added to principal, shall bear interest at the rate provided herein. Interest and principal shall be paid in installments as set forth in the amortization schedule attached hereto as Schedule A.

Principal and interest shall be payable by wire transfer of lawful money of the United States to First Pennsylvania Bank N.A., Philadelphia, Pennsylvania, for credit to The Philadelphia Saving Fund Society, Account No. 077-2616. If any installment of interest is not paid in full when due, or if the principal of this Note is not paid in full when due (whether at maturity or by acceleration or as a part of any prepayment or otherwise), the Company shall pay on demand interest on any unpaid amount from the date due until the date of payment at a rate equal to the lesser of 18 percent per annum, or the maximum rate per annum allowed by law.

This Note is issued pursuant to and as permitted by the Note Agreement, dated January ____, 1985 (as amended or supplemented, the "Note Agreement"), between the Company and The Philadelphia Saving Fund Society. This Note is secured as provided in and subject to the provisions of the Security Agreement (as defined in the Note Agreement and hereinafter used with the same meaning). Reference is hereby made to the Note Agreement and the Security Agreement for

a description of the provisions upon which this Note is to be issued and secured, the nature and extent of the security and the rights of the holder of this Note and others in respect of this Note and such security. The terms used in this Note and not hereinabove defined have the meanings indicated in Article V of the Security Agreement.

This Note is subject to prepayment in the manner, to the extent, under the circumstances and at the price provided for in the Security Agreement, and not otherwise.

During the continuance of an Event of Default under the Security Agreement, the principal hereof and the unpaid interest accrued hereon may be declared to be due and payable forthwith as provided in the Security Agreement.

Should any of the indebtedness represented by this Note be collected in any Proceeding, or this Note be placed in the hands of attorneys for collection after default, the Company agrees to pay, in addition to the principal and interest due and payable hereon, all costs of collecting this Note, including reasonable attorneys' fees and expenses.

Notwithstanding any provision in this Note or in any other agreement to the contrary, no recourse shall be had for the payment of the principal of or any interest or any other sums payable on, or in any way with respect to, this Note, or its enforcement or collection, against the Company, in its personal or corporate capacity or otherwise, or against any incorporator, shareholder, officer or director of the Company, the recourse of the holder hereof being limited exclusively to the Collateral.

IN WITNESS WHEREOF, the Company has duly executed this Note this 20th day of March, 1989.

TXL ASTRA CORPORATION VI

By _____
Title: