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RECORDATION NO. 12589-A FILED 1428

OCT 27 1981 -2 15 PM
INTERSTATE COMMERCE COMMISSION

Grand Trunk Western Railroad Co.
Law Department
131 West Lafayette Boulevard
Detroit, Michigan 48226
(313) 962-2260

1-300A160

October 23, 1981

Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
12th and Constitution Ave. N.W.
Washington, D.C. 20423

No. [Stamp]
Date OCT 27 1981
Fee \$ 10.00
ICC Washington, D. C.

ICC Recordation No. 12589

Dear Mrs. Mergenovich:

Enclosed for recordation under Section 11303 of the Interstate Commerce Act are four counterparts of a restated and expanded lease agreement, dated as of December 9, 1980, between Westinghouse Leasing Corporation and Grand Trunk Western Railroad Company.

An abbreviated form of this lease agreement was filed with the Commission and received recordation No. 12589 on December 17, 1980 at 12:10 p.m.

The addresses of the parties to said agreements are:

Lessor: Westinghouse Leasing Corporation
Three Gateway Center
Pittsburgh, Pennsylvania 15222
Lessee: Grand Trunk Western Railroad Co.
131 West Lafayette Boulevard
Detroit, Michigan 48226

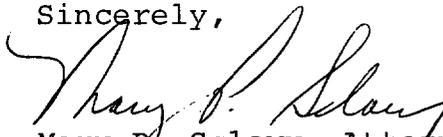
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FEE OPERATION

NOTE

The equipment covered by said agreement is 100-50' 60-70-ton box cars originally bearing NSL road numbers 101100, 101101, 101103, 101108 and 101110 through 101205, inclusive, and renumbered or to be renumbered to GTW 309700 through 309799, both inclusive, and with the legend "Owned by Westinghouse Leasing Corporation" or other security stenciling on each unit.

Enclosed is our check No. 505 in the amount of \$10.00 for the required recordation fee. Please accept for recordation one counterpart of the enclosed agreement, stamp the remaining counterparts with your recordation number and return them to the undersigned at the above address.

Sincerely,



Mary P. Sclawy, Attorney
GRAND TRUNK WESTERN RAILROAD COMPANY

MPS:jm
Enclosures

cc: James Meighen, Westinghouse Credit Corporation
Edwin Clock, Thayer, Ringoen & Macdonald

RECORDATION NO. 12589-A Filed 1985

OCT 27 1981 -2 15 PM

INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

Dated as of December 9, 1980

between

WESTINGHOUSE LEASING CORPORATION,
as Lessor

and

GRAND TRUNK WESTERN RAILROAD COMPANY,
as Lessee

LEASE OF RAILROAD EQUIPMENT
dated as of December 9, 1980, between
WESTINGHOUSE LEASING CORPORATION
(hereinafter called the "Lessor"), and
GRAND TRUNK WESTERN RAILROAD COMPANY
(hereinafter called the "Lessee")

RECITALS:

1. By a letter agreement dated December 9, 1980 and filed with the Interstate Commerce Commission (the "Letter Agreement"), the Lessor and the Lessee entered into a mutual and binding agreement for the leasing by the Lessor to Lessee of up to one hundred seventy-ton general purpose boxcars bearing Road Nos. NSL 101100, 101101, 101103, 101108, 101110-101205, inclusive.

2. The lease between Lessor and National Railway Utilization Corporation ("NRUC") described in the Letter Agreement has been terminated and no longer affects the subject boxcars.

3. As of July 1, 1981, ninety-nine of the subject boxcars, as identified on Schedule A hereto, have been accepted by the Lessee for leasing pursuant to the Letter Agreement, such acceptance being evidenced by acceptance certificates executed by the Lessee as to the boxcars accepted (individually an "Acceptance Certificate" or collectively the "Acceptance Certificates"). It is anticipated that the remainder of the subject boxcars will be so accepted by the Lessee.

4. The parties intend that this Lease cover all of the subject boxcars which have been accepted, and all of those which may in the future be accepted, by the Lessee as described in the immediately preceding recital, from and after the respective dates of acceptance of each such boxcar. Each such boxcar that has been or shall be so accepted is referred to herein as a "Unit" and such boxcars shall be referred to herein collectively as the "Units".

5. The parties further intend that this Lease supersede the Letter Agreement with respect to the lease of each of the subject boxcars during the period from and after the date of acceptance of each such boxcar as described in Recital 3, and that the Letter Agreement remain in full

force and effect for (a) boxcars that have not been so accepted (until the respective dates of their acceptance) and (b) boxcars that have been so accepted with respect to the periods prior to the respective dates of their acceptance.

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

SECTION 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rent and other amounts hereunder shall be absolute and unconditional and, except as provided in Section 3 hereof, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, 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, whether under this Lease or otherwise, including the Lessee's rights by subrogation hereunder against the Builder 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 or approval on the part of the Lessee of this Lease, any present or future insolvency of or 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 shall 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 this Lease or any of the Units except in accordance with the express terms hereof. Each rent 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.

SECTION 2. Acceptance of Units; Repair Work. The Lessee confirms its acceptance of the Units, as identified on Schedule A hereto, for leasing pursuant to this Agreement. The parties confirm their agreement in respect of the effectiveness of this Lease and the Letter Agreement as set forth in Recitals 3 and 4 hereof.

With respect to repairs occasioned by damages that occurred prior to delivery of the Units to the Lessee pursuant to the Letter Agreement the parties agree as follows:

(A) The Lessee will make repairs to the boxcars in accordance with the Letter Agreement and will document all repair work. The Lessee agrees to pursue all claims against delivering railroads and others for all required repairs chargeable against them under the AAR Rules.

(B) The Lessee shall, at the expense of the Lessor, cooperate with the Lessor in conducting joint inspection or similar procedures with respect to each Unit at the reasonable request of the Lessor.

(C) The costs of all repairs for which the Lessee does not receive payment from another source within 90 days will be paid by the Lessor within thirty (30) days following receipt of invoice documentation from Lessee.

The Lessor hereby warrants to the Lessee that, on each date a Unit was accepted by the Lessee, such Unit was free from any lien or encumbrance that would adversely affect the Lessee's legal right to use such Unit.

SECTION 3. Rent. The Lessee shall pay to the Lessor as rent for each Unit, the amount of \$912.50 per quarter, in arrears, which rent shall commence to accrue on the date of acceptance set forth in the Acceptance Certificate and shall be payable for the quarters ending January 31, April 30, July 31 and October 31 of each year in which this Lease is in effect, provided that for any period of time less than one quarter during which a Unit is subject to this Lease the rent for such Unit during such period shall be \$10 per day for each day in such period. Notwithstanding the foregoing, if the Lessee is still leasing the Units pursuant hereto on January 31, 1982, and no Event of Default or event which,

with the giving of notice or lapse of time or both, would constitute an Event of Default shall have occurred and be continuing, the Lessee shall have no obligation to pay rent for the Units for the quarters ending April 30, 1982 and July 31, 1982. Notwithstanding the Lessor's waiver of rent for the quarters ending April 30, 1982 and July 31, 1982, as provided in the immediately preceding sentence, all other obligations, duties and requirements of the Lessee, and all benefits, rights, privileges and remedies of the Lessor, pursuant to this Lease shall continue without exception or interruption.

If any rent payment date is not a business day the rent otherwise payable on such date shall then be payable on the next succeeding business day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding business day.

SECTION 4. Term of Lease; Cancellation Rights; Conversion Rights. This Lease, as to each Unit, shall begin on the date of acceptance of such Unit by the Lessee and, subject to the provisions of Sections 2, 7, 10 and 13 hereof, shall continue in effect until cancelled pursuant to this Section 4 or, if converted into a long-term lease pursuant to the last paragraph of this Section 4, for the term specified in such paragraph. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 6, 7, 9, 11, 14, 19 and 21 hereof) shall survive the termination of this Lease.

Unless converted to a long-term lease (as hereinafter provided), the Lessee may at any time cancel this Lease with respect to all but not less than all of the Units by giving not less than sixty (60) days' prior written notice to the Lessor of such cancellation, specifying the effective date thereof, which may only be the last day of any month. If such notice is given by the Lessee specifying an effective date prior to January 31, 1982, then as a condition to the effectiveness of such notice the Lessee shall remit with such notice the amount of One Hundred Twenty-Five Dollars (\$125) for each Unit; rent for each Unit shall continue to and including the effective date of the cancellation. In the event Lessee cancels this Lease (as provided in this paragraph), Lessee agrees, at its sole cost, expense and risk, to store on its tracks all Units so cancelled for a period of up to six (6) months following the effectiveness date of Lessee's cancellation notice. Lessee further

agrees, following expiration of the aforesaid six (6) month period, to store all Units on its tracks, and at Lessor's sole risk, for an unlimited term, provided only that Lessor pay to Lessee the sum of One Dollar (\$1.00) per day for each Unit so stored.

Unless converted to a long-term lease pursuant to the immediately succeeding paragraph of this Section 4, the Lessor may cancel this Lease with respect to all but not less than all of the Units by giving at least ninety (90) days prior written notice to the Lessee of such cancellation, specifying the effective date thereof, which may only be the last day of any month. If the Lessor elects to cancel this Lease pursuant hereto and such cancellation becomes effective before the Lessee has received the entire benefit of rent abatement for the quarters ending April 30, 1982 and July 31, 1982 (as provided in Section 3 above), the Lessor shall pay to the Lessee, at the time such cancellation becomes effective, for each Unit then subject to this Lease, Ten Dollars per Unit for each day from the effective date of Lessor's cancellation through and including July 31, 1982, but not to exceed \$1,825.00 per Unit. The right of first refusal in favor of the Lessee provided for in Section 13 hereof shall become operative upon any cancellation of this Lease pursuant to this paragraph occurring on or prior to January 31, 1984.

At any time after the execution of this Lease and prior to February 1, 1984, provided that no Event of Default, or event which with notice or lapse of time, or both, would constitute an Event of Default, shall have occurred and be continuing, the Lessee shall have the option, with respect to all but not less than all of the Units delivered hereunder, exercisable by giving written notice to the Lessor, to convert this Lease into a long-term lease at a rent of Eight Hundred Sixty-Six Dollars and 88 Cents (\$866.88) per quarter per Unit, for a term of fifteen (15) years commencing upon the giving of such notice, provided that if such notice is given prior to August 1, 1982, the term of such long-term lease shall expire on July 31, 1997. Exercise of such option shall extinguish the rights to cancel this Lease provided in favor of the Lessee and the Lessor, respectively, in Section 4 hereof.

SECTION 5. Identification Marks. The Lessee has caused each Unit (and shall cause any boxcar which shall hereafter become a Unit), to be repainted and restenciled to the extent necessary to show the interest of the Lessee therein, including, without limitation, renumbering such

Unit by replacing the present NRUC road number of such Unit with a road number of the Lessee that shall have been previously recorded with the Interstate Commerce Commission, and shall keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each such Unit, in letters not less than one inch in height, the words, "WESTINGHOUSE LEASING CORPORATION, OWNER-LESSOR," or ownership subject to security agreement filed under the Interstate Commerce Act, 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 or reasonably requested in order to protect the Lessor's title to such Unit and the rights of the Lessor under this Lease. The Lessee will not place or permit any such Unit to be placed in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. Except for the restenciling contemplated in this Lease upon delivery and acceptance of each Unit, the Lessee will not change or permit to be changed the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Lessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Lessor's interest in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interest of the Lessor in such Units.

The Lessor shall pay the Lessee One Hundred Twenty-Five Dollars (\$125) for each Unit repainted and restenciled by Lessee within thirty (30) days following receipt by Lessor of invoice documentation from Lessee.

Except as above provided, 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 permit the Units to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of

its rights to use the Units under this Lease, and the Units may be lettered in an appropriate manner for convenience of identification of the interest of the Lessee therein.

SECTION 6. Taxes. For conditions and events occurring from and after the commencement of this Lease as to each Unit, the Lessee agrees to pay or cause to be paid, and on written demand to indemnify and hold the Lessor harmless from all taxes (income, gross receipts, sales, use, property [real or personal, tangible or intangible], stamp taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Lessor, the Lessee or otherwise by any federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: (i) any Unit or any part thereof; (ii) the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition, thereof; (iii) the rentals, receipts or earnings arising therefrom; or (iv) this Lease (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Lessor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease (to the extent not excluded by this Section 6), provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Lease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Lessor resulting from bankruptcy or other proceedings for the relief of creditors in which the Lessor is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rent under this Lease, without the consent of the Lessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence

(to the extent not covered by the payment of the Casualty Value) or an Event of Default shall have occurred and be continuing; (iii) franchise Taxes, Taxes based on the net income and/or capital structure of the Lessor and other similar "doing business" Taxes; (iv) minimum Taxes imposed under Section 56 of the Internal Revenue Code of 1954, as amended; and (v) sales, purchase and transfer of title Taxes imposed upon the purchase of the Equipment; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the third paragraph of this Section 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of Section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this Section 6, shall be an amount sufficient to restore the Lessor to the same after-tax position such Lessor would have been in had such Taxes not been imposed.

If claim is made against the Lessor for any Taxes indemnified against under this Section 6, the Lessor shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, the Lessor shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Lessor; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be

submitted or filed in the name of the Lessor in any such proceeding or action) without the prior written consent of the Lessor, which consent shall not be unreasonably withheld. If the Lessor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, the Lessor shall pay to the Lessee the amount of such refund or interest net of expenses, and shall also pay to the Lessee any additional amount paid by Lessee pursuant to the second paragraph of this Section 6 (as to the latter payment, however, only to the extent that the Lessor is restored to the same after-tax position it would have been in had such refund not been received), but only if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing.

In case any report or return is required to be made with respect to any obligation of the Lessee under this Section 6 or arising out of this Section 6, the Lessee shall either make such report or return in such manner as will show the interests of the Lessor in the Units, or shall promptly notify the Lessor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Lessor. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this Section 6 shall survive and continue, notwithstanding the termination of this Lease, but only with respect to periods included in the term of this Lease. Payments due from the Lessee under this Section 6 shall be payable directly to the Lessor, except to the extent paid to a governmental agency or taxing authority. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

The Lessee shall furnish promptly, upon request, such information and data as are normally available to the Lessee and which the Lessor reasonably may require to permit compliance with the requirements of any taxing authorities.

SECTION 7. Payment for Casualty Occurrences; Insurance. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or

permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Lease, or until such Unit shall have been returned in the manner provided in Sections 11 or 14 hereof, the Lessee shall promptly and fully notify (after the Lessee has knowledge of such Casualty Occurrence) the Lessor with respect thereto. On the next rent payment date (not earlier than the first rent payment date, or, in the event the term of this Lease has already expired or will expire within the 15 days after delivery of such notice, on a date within 15 days of such delivery), the Lessee shall pay or cause to be paid to the Lessor an amount equal to the rent payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value of such Unit as of such rent payment date (such rent payment date being hereinafter called the Casualty Payment Date). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rent for such Unit shall cease to accrue as of the date of such payment, 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.

If the date upon which the making of such payment by the Lessee in respect of any Unit as required as aforesaid shall be after the term of this Lease in respect of such Unit shall have expired, no rent for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit, shall pay or cause to be paid interest thereon from the end of such term to the date of such payment at the Prime Rate of interest (as hereinafter defined).

The Lessor hereby constitutes the Lessee as its agent to, and Lessee shall dispose of any such Unit suffering a Casualty Occurrence at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor and no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and the Lessor shall pay

such proceeds to the Lessee, and the excess, if any, shall be retained by the Lessor. If an Event of Default or event has occurred and is continuing, the Lessor shall retain the proceeds of such sale for application in accordance with Section 10 hereof.

The Casualty Value of each Unit as of the Casualty Payment Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Section 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Lease; but the Lessee shall in all other respects comply with the provisions of said Section 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Lessor.

At its own expense, the Lessee will cause to be carried and maintained casualty insurance with respect to each Unit and public liability insurance, in each case in amounts and against risks customarily insured against by the Lessee on similar equipment and, in any event, on equipment owned by it. If requested by the Lessor, all policies with respect to such insurance shall name the Lessor and the Lessee as assureds and loss payees, as their interests may appear, and shall provide for at least 10 days' prior written notice by the underwriter or insurance company to the Lessor in the event of cancellation or expiration. The Lessee shall upon request of the Lessor, furnish appropriate evidence of such insurance. Notwithstanding the foregoing, Lessee may self-insure all the risk(s) set forth above through Lessee's

participation in the self-insurance plan of the Canadian National Railway. In January of each year during the term hereof, Lessee shall either (a) deliver to Lessor a certificate of an officer of Lessee stating that Lessee is furnishing self-insurance through Lessee's participation in said plan or (b) deliver to the Lessor a certificate of insurance by or on behalf of each insurer stating the coverage, named insured and limits of each policy required above.

Except as hereinabove in this Section 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 from and after delivery to, and acceptance thereof, by the Lessee hereunder.

SECTION 8. Reports. On or before April 1 in each year, commencing with the calendar year next succeeding the calendar year in which this Lease is executed, the Lessee will furnish to the Lessor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of any Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor 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 Section 5 hereof have been preserved or replaced. The Lessor shall have the right by its agents to inspect the Units and the records of the Lessee and its agents with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

The Lessee agrees at its expense 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 Lessor's ownership of the Units or the leasing thereof to the Lessee or the subleasing thereof by the Lessee pursuant to Section 12 hereof.

SECTION 9. Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSOR, DOES NOT MAKE ANY, HAS NOT MADE ANY AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; 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 the 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 against the manufacturer of the Units. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) (except as expressly provided herein) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of an Acceptance Certificate shall be conclusive evidence as between the Lessee, on the one hand, and the Lessor, on the other hand, that the 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, 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 AAR and with all lawful rules of the United States Department of Transportation, the Interstate Commerce

Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such applicable laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at its own expense; provided, however, that the Lessee may upon written notice to the Lessor, 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, adversely affect the property or rights of the Lessor under this Lease.

Following delivery of possession of each Unit to the Lessee and continuing until cancellation or conversion of this Lease pursuant to Section 4 hereof, the Lessee shall repair all running damage and all damage of the type includible in the AAR "defect card" procedures under which a railroad or other user delivering a car through an interchange is responsible for any such damage existing at the time of interchange. Unless and until the Lessee converts this Lease into a long term lease pursuant to Section 4 hereof, the Lessee shall not be responsible and the Lessor shall be responsible for repairing minor damage and wear and tear that does not of itself diminish the utility of the Unit but which would customarily be repaired during a major periodic maintenance refurbishment; provided that, upon such conversion the Lessee shall be responsible for repairing such minor damage and wear and tear during the long term lease. To the extent that the foregoing allocation of repair and maintenance responsibilities shall not be adequate to cause the Units to be maintained in such condition as will permit each Unit to qualify as an "XM Class" boxcar as of the date Lessee executes an Acceptance Certificate with respect to each such Unit, by the AAR, the Lessee shall be responsible to maintain and keep, at its own cost and expense, each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) in such good operating order, repair and condition, ordinary wear and tear excepted, and, in such condition as will permit such Unit to so qualify; provided, however, the Lessee shall not be required to keep any Unit in actual "XM" service.

Following conversion of this Lease into a long term lease pursuant to Section 4 hereof, the Lessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions

(including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, 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 United States Department of Transportation or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) ("Addition") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; provided, however, that no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such Addition not been made, assuming the Unit was then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Lessor in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for any such original Part; (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the items of the second or third paragraph of this Section 9; or (iii) notwithstanding the provisions of the fourth paragraph of this Section 9, such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee. The term Part for the purposes of this paragraph and Section 14 hereof shall be defined to include any appliance, part,

instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

For conditions and events occurring from and after the commencement of this Lease with respect to any Unit, the Lessee shall, with respect to such Unit, pay or cause to be paid, and shall protect, indemnify and hold the Lessor, and its successors, assigns, agents and servants (hereinafter called Indemnified Persons), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any and all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessee, the Lessor or any other person) resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (all of which matters hereinabove set forth in this Section 9 being hereinafter called "Indemnified Matters"). All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this Section 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the

indemnification may proceed directly against the Lessee under this Section 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's reasonable request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this Section 9, the Lessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any Indemnified Matter by the Lessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this Section 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such Indemnified Matter.

The Lessee further agrees to indemnify, protect and hold harmless the Lessor from and against any and all liabilities, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed

upon or accruing against the Lessor, as a result of conditions or events occurring from and after the commencement date of this Lease with respect to any Unit, because of the use in or about the construction or operation of such Unit of any article or material not manufactured by the manufacturer of such Unit or of any design, system, process, formula or combination not developed or purported to be developed by such manufacturer which infringes or is claimed to infringe on any patent or other right.

The indemnities contained in this Section 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Section 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Lessor therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of any value of the Equipment following the expiration of the term hereof or of any extension of such term. With respect to the indemnities for federal income taxes, reference is made to Section 21 hereof.

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

(A) payment of any part of the rent provided in Section 3 or Section 13 hereof or payment in respect of any Casualty Occurrence pursuant to Section 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for 10 business days after notice of non-payment; or

(B) any 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, 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; or

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

(D) any other 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, under any bankruptcy, or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee, hereunder), 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 shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the 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 trust or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(E) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof; or

(F) the subjection of any of the Lessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency;

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; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages (the "Liquidated Damages") for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals 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 (2) 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 the basis of an 8% per annum discount, compounded from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with 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 the rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next

preceding the date of termination over the amount the Lessor reasonably estimates to be the sale value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Lessor shall have sold or leased any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such sale, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Lessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 8% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder. Without prejudice to any remedies that the Lessor may assert pursuant to Sections 10(a) or (b) hereof, it is expressly understood that, notwithstanding the occurrence of an Event of Default, so long as the Lessee has not converted to a long-term lease pursuant to Section 4 hereof, the Lessee shall be entitled to cancel this Lease in accordance with Section 4 upon the giving of not less than sixty (60) days' prior written notice as provided in Section 4, provided that such written notice shall be effective only if given not later than sixty (60) days following such Event of Default; in the event of such cancellation by the Lessee following an Event of Default the Lessor shall have the rights set forth in Section 4, including without limitation the right to continuation of rent to and including the effective date of cancellation, but the Lessor shall not be

entitled to recover Liquidated Damages pursuant to this Section 10(b) or other damages in respect of rentals lost for the period following the effective date of cancellation.

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

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 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 such rental payments regardless of any offset which may be asserted by the Lessor 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; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Lessor.

The Lessee also agrees to furnish the Lessor promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which upon notice or lapse of time or both would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section 10, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 11. Return of Units Upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor and shall give prompt telegraphic and written notice to the AAR and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Lessor pursuant to this Section 11 shall (i) be in the same operating order, repair and condition as when originally accepted by the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the AAR, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Lessor and there assembled,

(b) furnish and arrange for the Lessor to store such Units on any lines of railroad or premises approved by the Lessor until such Units have been sold, leased or otherwise disposed of by the Lessor, and

(c) cause the Units to be moved to such interchange point or points as shall be designated by the Lessor upon any sale, lease or other disposal of all or any of the Units.

The assembling, delivery, storage and transporting of the Units as hereinabove 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 as 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 or user of any such Unit, to inspect the same, provided, however that the Lessee shall not be liable for any injury to or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents to the extent otherwise provided by law. In the

event that the Units or any thereof are sold, the Lessee shall pay to the Lessor the per diem interchange for each such Unit which shall not be assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 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 whosoever shall be in possession of such Unit at the time, and to give all appropriate notices and directions to the AAR to change the registration of such Unit from the Lessee to the Lessor as the Lessor may direct.

SECTION 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 Sections 6, 7, 10 and 21 and the rights to receive the rent payable under this Lease) shall inure to the benefit of the Lessor's successors and assigns, except to the extent that the same may be reserved to the Lessor.

So long as no Event of Default hereunder shall have occurred, the Lessee shall be entitled to the possession of the Units in accordance with the terms of this Lease 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, except as herein-after provided in this Section 12. 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 created by the Lessor and not the result of an Event of Default or resulting from claims against the Lessor not related to the ownership of the Units, or liens for taxes for which Lessee is not liable pursuant to this Lease or liens arising from the NRUC Lease for which Lessee is not liable pursuant to this Lease) upon or with respect to any Unit or the interest of the Lessor or the Lessee therein, and will promptly discharge any such lien, claim,

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 nonpayment thereof does not, in the reasonable opinion of the Lessor, adversely affect the interest of the Lessor in the Units, the income and proceeds from the Units, or otherwise under this Lease. 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 next paragraph.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms hereof and to permit the use of the Units by any railroad company or companies incorporated in the United States of America with which it has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies 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 or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessee shall not assign, lease or permit the assignment, lease or use of any Unit to service involving the operation and maintenance thereof outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to December 9, 1980 (hereinafter called the Code), nor shall the Lessee assign or lease to, or permit the lease or use of the Units by, any person if such assignment or lease would cause such Units to fail to qualify as "Section 38 property" within the meaning of the Code. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this Section 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 solvent corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder by an appropriate

instrument in writing) into or with which the Lessee shall have 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, consolidation or acquisition, be in default under any provision of this Lease.

In case of any sale or conveyance of all or substantially all of the lines of railroad of the Lessee, or of the lines of the Lessee on which a substantial portion of the Units are used, the purchaser, or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Lease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Lessee hereunder.

SECTION 13. Right of First Refusal. In the event that this Lease is cancelled, effective prior to January 31, 1984, pursuant to the exercise of the Lessor's right to cancel provided for in Section 4 hereof, and the Lessee was not at the time of such cancellation in default hereunder, the Lessee shall have a right of first refusal with respect to any sale, lease or other disposition of the cars that Lessor is willing to accept on or prior to the effective date of such cancellation, but in no event later than January 31, 1984. Subject to the first sentence of this paragraph, in the event that the Lessor shall receive a bona fide offer from another party to purchase or lease the Units and the Lessor is willing to sell or lease the Units pursuant to such offer, the Lessor shall give written notice to the Lessee of such offer. Such notice shall be given to the Lessee promptly after such offer is received by the Lessor and shall include the price or rent and the other terms and conditions offered by the other party to the Lessor. The Lessee shall have the sole right and option, for a period of 20 days from the giving of such notice but not later than January 31, 1984, to purchase or lease the Units at the price or rent and on the same terms and conditions as those at which the Units shall have been proposed to be sold or leased. The Lessee shall exercise such right of first refusal by delivery to the Lessor of a written notice specifying a date of purchase or lease, which date shall not be later than twenty (20) days following receipt by Lessor of Lessee's written notice. This right of first refusal shall not adversely affect the Lessee's rights to the benefit of the two-quarter rent abatement as provided in Sections 3 and 4 hereof.

instrument in writing) into or with which the Lessee shall have 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, consolidation or acquisition, be in default under any provision of this Lease.

In case of any sale or conveyance of all or substantially all of the lines of railroad of the Lessee, or of the lines of the Lessee on which a substantial portion of the Units are used, the purchaser, or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Lease or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Lessee hereunder.

SECTION 13. Right of First Refusal. In the event that this Lease is cancelled, effective prior to January 31, 1984, pursuant to the exercise of the Lessor's right to cancel provided for in Section 4 hereof, and the Lessee was not at the time of such cancellation in default hereunder, the Lessee shall have a right of first refusal with respect to any sale, lease or other disposition of the cars that Lessor is willing to accept on or prior to the effective date of such cancellation, but in no event later than January 31, 1984. Subject to the first sentence of this paragraph, in the event that the Lessor shall receive a bona fide offer from another party to purchase or lease the Units and the Lessor is willing to sell or lease the Units pursuant to such offer, the Lessor shall give written notice to the Lessee of such offer. Such notice shall be given to the Lessee promptly after such offer is received by the Lessor and shall include the price or rent and the other terms and conditions offered by the other party to the Lessor. The Lessee shall have the sole right and option, for a period of 20 days from the giving of such notice but not later than January 31, 1984, to purchase or lease the Units at the price or rent and on the same terms and conditions as those at which the Units shall have been proposed to be sold or leased. The Lessee shall exercise such right of first refusal by delivery to the Lessor of a written notice specifying a date of purchase or lease, which date shall not be later than twenty (20) days following receipt by Lessor of Lessee's written notice. This right of first refusal shall not adversely affect the Lessee's rights to the benefit of the two-quarter rent abatement as provided in Sections 3 and 4 hereof.

SECTION 14. Return of Units upon Termination. On or prior to the termination (including expiration or cancellation) of this Lease or as soon as practicable on or after the termination of this Lease and in any event not later than 90 days after the termination of this Lease, the Lessee will, except as hereinafter provided, at its own cost and expense, at the request of the Lessor, cause each Unit to be transported to such point or points on the Lessee's lines as shall be designated by the Lessor immediately prior to such termination and arrange for the Lessor to store such Unit on any of the Lessee's lines of railroad or premises approved by the Lessor (a) in the event of termination of this Lease other than by cancellation by the Lessee pursuant to Section 4, for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 120 days from the date at which at least 95% of such Units are first placed in storage pursuant to this Section 14, the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee, or (b) in the event of termination of this Lease by cancellation by the Lessee pursuant to Section 4, for the periods and at the expense and risk of the respective parties, all as set forth in the second paragraph of Section 4; provided, however, that if the lines designated by the Lessor for such storage are lines other than Lessee's lines, the cost of using such lines shall be at the Lessor's expense. 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 or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person exercising, either on behalf of the Lessor or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, 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 cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be in the same operating order, repair and condition as when originally accepted by the Lessee, reasonable wear and tear excepted; (ii) have attached or affixed thereto any Part title to which is in the Lessor pursuant to Section 9 hereof and have

removed therefrom at the Lessee's expense any Part or Addition title to which is not in the Lessor or any other person (other than the Lessee) pursuant to such Section 9; (iii) be free and clear of all liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against or created by the Lessor, or liens for taxes for which the Lessee is not liable pursuant to this Lease); and (iv) meet the standards then in effect for such Units under the Interchange Rules of the AAR, if applicable, or such comparable standards as may then be in effect. If any Unit suffers a Casualty Occurrence during any storage period provided for in this Section 14, prior to its return to the Lessor, the Lessee shall pay to the Lessor the Casualty Value of such Unit as determined in accordance with Section 7 hereof. All gross amounts earned in respect of any Unit shall, from and after the termination of this Lease as to such Unit, belong to and be the property of the Lessor. In the event that by the 120th day after the termination of this Lease the Lessee has not, at the request of the Lessor, caused at least 95% of the Units to be transported to such point or points as shall have been designated by the Lessor pursuant to this Section 14, the Lessee shall pay to the Lessor the per diem interchange multiplied by the number of Units equal to the difference between 95% of such Units and the number of Units previously delivered pursuant to this Section 14 (such number to be determined on each day) for each day from such 120th day to the date on which at least 95% of the Units have been so transported. If, after the termination of the storage period provided in this Section 14, any Units have not been so transported, the Lessee shall pay to the Lessor the per diem interchange for each Unit not so transported for each day after the end of such storage period until such Unit or Units have been so transported; provided, however, that if any Unit has not suffered a Casualty Occurrence prior to the first anniversary of the termination of this Lease and has not been so transported within one year after the termination of this Lease, such Unit shall be deemed to have suffered a Casualty Occurrence and the Lessee shall pay or cause to be paid to the Lessor, on the 10th day after the expiration of such year, an amount equal to the greater of (x) the Casualty Value of such Unit as of such payment date or (y) the Fair Market Value of such Unit as of the date this Lease terminated and assuming such Unit had not experienced a Casualty Occurrence and was then in the condition required to be maintained by the terms of this Lease. If, after 10 days from the expiration of such year, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of any such Unit, such value shall be

determined in accordance with the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Value of the Units. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Value of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be final and binding upon the parties hereto as the Fair Market Value. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as were in effect on the date of appointment of the final appraiser, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Value and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee. Payment of the Fair Market Value shall be made on the fifth business day following the determination of such Fair Market Value. "Fair Market Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing buyer (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.

SECTION 15. Recording. The Lessee, at its own expense, will cause this Lease, and any lease permitted under Section 12 hereof (including any assignment or

reassignment hereof or thereof) to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303. The Lessee will, at its own expense, undertake every filing, registering, deposit, and recording required of the Lessor (to the extent relating to this Lease or Units) and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of proper protection, to its satisfaction, of the Lessor's interest in the Units, or (to the extent relating to this Lease or Units) for the purpose of carrying out the intention of this Lease.

SECTION 16. Additional Opinions. The Lessee will promptly furnish to the Lessor evidence of every filing, registering, depositing or recording required pursuant to Section 15 hereof, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor. This Lease shall be filed and recorded with the Interstate Commerce Commission promptly after execution hereof by the Lessor and the Lessee.

SECTION 17. This Section intentionally left blank.

SECTION 18. Lessor's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its covenants, commitments and other agreements contained herein, the Lessor may upon notice to the Lessee itself perform or comply with any of such covenants, commitments or other agreements, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the Prime Rate (as hereafter defined) shall be payable by the Lessee upon demand.

SECTION 19. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder (except as provided in Section 3 hereof) shall result in the obligation on the part of the Lessee promptly to pay an amount equal to the Prime Rate on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

SECTION 20. Notices. Any notice required or permitted to be given by either party hereto to the other

shall be deemed to have been given when delivered to such other party by personal service or by registered or certified mail, first-class postage prepaid, addressed as follows:

if to the Lessor, at Three Gateway Center,
Pittsburgh, Pennsylvania 15222, Attention: Manager
Lease Operations;

if to the Lessee, at 131 West Lafayette,
Detroit, Michigan 48226, Attention: Secretary;

or addressed to either party at such address as such party shall hereafter furnish to the other party in writing. Any certificate, document or report required to be furnished by either party hereto to the other party shall be delivered to the address set forth above or so furnished for such party.

SECTION 21. Federal Income Taxes. The NRUC Lease was entered into on the basis that Lessor would be entitled to such deductions, credits and other benefits provided by the Internal Revenue Code of 1954, as amended, (hereinafter called the Code) to an owner of property, including without limitation: (a) deductions for depreciation of each Unit under section 167 of the Code commencing in the year that such Unit is delivered to the Lessor computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits methods authorized by section 167(b)(2) and (3) of the Code, in the year in which such switch will result in a greater deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of the Internal Revenue, (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Income Tax Regulation §1.167(a)-11 and (iv) of an asset depreciation period of 12 years, (v) of a net salvage value of zero after the reduction permitted by section 167(f) of the Code and (vi) that the Units of Equipment shall be treated as having been placed in service on the respective dates on which they were accepted and delivered under the NRUC Lease (hereinafter called the ADR Deductions); and (b) an investment credit pursuant to Section 38 of the Code in the year that each Unit was delivered to the Lessor at least equal to 10% of the Purchase Price of such Unit (hereinafter called the Investment Credit). The NRUC Lease was also entered into on the assumption that (1) for Federal

income tax purposes, all amounts includible in the gross income of the Lessor with respect to the Equipment and all deductions allowable to the Lessor with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, and (2) for purposes of computing the ADR Deductions with respect to the Equipment for the calendar year in which the Units of Equipment were first placed in service, the Lessor would be entitled to elect and would elect the half-year convention.

The Lessee understands that (a) the Lessor has claimed on its Federal income tax returns the Investment Credit and the ADR Deductions, as above described, (b) the Lessor has treated on its Federal income tax returns the income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, and (c) the Lessor is entering into this Lease with the understanding that, at all times during the term of the Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code.

The 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 any of the foregoing provisions of this Section 21.

The Lessee agrees to use its best efforts to maintain sufficient records to verify the amount of income and deductions in respect of each Unit allocable to sources within and without the United States. The Lessee agrees to give the Lessor, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Lessor. In addition, within 90 days after the end of each calendar year, beginning with the year this Lease is executed, the Lessee agrees to furnish to the Lessor a statement to the effect that from the delivery of the Units hereunder, none of the Units has been used outside of the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year; if, however, any of the Units was used outside the United States during such year for more than 90 days, Lessee hereby covenants and agrees to provide to Lessor the appropriate

details of any such use, which statement shall be signed by the Vice President Finance or Treasurer of the Lessee.

If, for Federal income tax purposes, as a result of (1) the inaccuracy of any statement made by the Lessee in any document furnished to the Lessor by the Lessee (or any officer, agent or employee thereof); or (2) the noncompliance, breach, or misrepresentation by the Lessee with or of any provision of this Section 21; or (3) the use of any Unit by the Lessee in such a way as to disqualify it as "Section 38 property" within the meaning of section 48(b) of the Code or as property eligible for the ADR Deduction; or (4) any actions or omissions by the Lessee, except any actions or omissions permitted by the terms of this Lease, but excluding any of the specific occurrences or events specified in the eighth paragraph of this Section 21, (a) the Lessor shall not be entitled to, or shall suffer a disallowance or recapture of or shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Lessee, of independent tax counsel of the Lessor approved by the Lessee ("Special Tax Counsel"), which approval shall not be unreasonably withheld, that such claim is not allowable), all or any portion of the Investment Credit or the ADR Deductions or (b) any item of income or deduction with respect to a Unit shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Lessor at its option and upon delivery to Lessee of a certificate of an officer of Lessor setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be paid pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Lessor of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Lessor of the tax which becomes due as a result of the Loss, increase the rental payments under this Lease over its remaining term by such an amount which shall cause the Lessor's after-tax economic yield to equal the after-tax economic yield (such economic yield being hereinafter called the "Net Economic Return") that would have been realized by the Lessor if such Loss has not occurred, such increase in the rental payments to be made directly to the Lessor, or (ii) within 30 days of giving the

Net Economic Return Notice, require the Lessee to pay to the Lessor in a lump sum the amount as shall, in the reasonable opinion of the Lessor, be required to provide the Lessor with the Net Economic Return that would have been realized by the Lessor if such Loss had not occurred. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Lessor which has not been taken into account in determining the lump sum payment, payment will be made to the Lessee at the time such benefit is realized; provided, however, that the Lessee shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Lessor pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Lessor to the Lessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Lessor pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Lessor and shall be computed using the same method and assumptions as were utilized by the Lessor in originally evaluating the transaction except for the assumption that resulted in such adjustments.

In the event that the Lessor suffers a Loss and the Lessor and the Lessee are unable to agree, within 60 days following the Lessee's receipt of a Net Economic Return Notice, on the indemnity amounts or amounts required to restore the Lessor's Net Economic Return, then the Lessee shall pay in a lump sum within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Lessor (regardless of whether the Lessee agrees therewith) be required to provide the Lessor with the Net Economic Return that would have been realized by the Lessor if such Loss had not occurred.

Any late payment by the Lessee of any of its obligations under this Section 21 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% over the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which The Chase Manhattan Bank, N.A., New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity hereunder in respect of any Loss to the extent such Loss is the result of any of the following:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of this Lease) of any Unit or of the interest of the Lessor in any Unit or the rentals under this Lease, or any transfer or disposition of any Unit or of the interest of the Lessor in any Units or the rentals under this Lease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Lessor is the debtor, unless, in each case, such transfer or disposition is made (A) as a direct result of an Event of Default, as defined in Section 10 of this Lease, which has occurred and is continuing; (b) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Lessee;

(ii) the failure of the Lessor to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the applicable Income Tax Regulations), or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Units as derived from, or allocable to, sources within the United States, unless Special Tax Counsel shall have given its opinion to the Lessor that such claim is not allowable;

(iii) the failure of the Lessor to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions, as applicable;

(iv) any residual sharing, guarantee agreement or other voluntary act of the Lessor (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by this Lease;

(v) a change in the form or type of organization or the taxable status of the Lessor or any successor or transferee of the Lessor;

(vi) a Casualty Occurrence with respect to a Unit, if the Lessee shall have paid all amounts required to be paid in respect of such Casualty Occurrence under this Lease; or

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is enacted after December 9, 1980 (whether or not retroactively effective for any period on or prior to such date).

If at the conclusion of an audit the Lessor receives a preliminary or "30-day-letter" from the Internal Revenue service proposing an adjustment in any item claimed in accordance with the second and third paragraphs of this Section 21 on a tax return or refund claim of the Lessor for which the Lessee would be required to indemnify the Lessor pursuant to this Section 21 and the amount of the indemnity which the Lessee would be required to pay (after taking into account the effect that the adjustment would have in periods not included in the audit) would exceed \$50,000, or, in the good faith opinion of the Lessee, the adjustment would have a continuing or precedential effect on the Lessee or the railroad industry and the Lessee so advises the Lessor in writing, the Lessee shall not be required to indemnify the Lessor unless and until the Lessor takes the action set forth below, provided that at any time, whether before or after commencing to take such action, the Lessor may decline to take such action by notifying the Lessee in writing that the Lessee is relieved of its obligations to indemnify the Lessor with respect to such adjustment or any such portion specified in such notice. Upon receipt of such preliminary or 30-day letter, the Lessor shall promptly notify the Lessee of the proposed adjustment, and, upon receipt within 20 days after Lessee's receipt of such notice of a written request to do so from the Lessee, the Lessor shall request from independent tax counsel selected by it, and approved by the Lessee, which approval shall not be unreasonably withheld (hereinafter called the Lessor's Tax Counsel), an opinion whether there is a reasonable basis for contesting in the event such proposed adjustment is contested. If the opinion is to the effect that there is such a reasonable basis, the Lessor shall contest such proposed adjustment beyond the level of the Internal Revenue Service auditing agent by such administrative proceedings, if any, as may be determined by the Lessor in its discretion. Upon the conclusion of such administrative proceedings, if any, the Lessor shall promptly notify the Lessee of the final adjustment proposed by the Internal Revenue Service and, upon receipt within 30 days thereafter of a written request to do so from the Lessee, the Lessor shall promptly request the Lessor's Tax Counsel for its opinion whether there is a reasonable basis for contesting in the event such final adjustment is contested. If the opinion is to the effect that there is such a reasonable basis, the Lessor shall

contest such final adjustment in a court of competent jurisdiction. If the Lessee requests the Lessor to appeal the decision of such a court or of an intermediate appellate court, the Lessor shall promptly request the Lessor's Tax Counsel for its opinion whether there is a reasonable basis for contesting in the event such decision is appealed. If the opinion is to the effect that there is such a reasonable basis, the Lessor shall appeal such decision. The Lessor, in its discretion, shall determine the initial and any appellate court and, if the adjustment relates to an item claimed on a tax return, shall determine whether the proceedings shall be for redetermination of the deficiency proposed to be assessed by the Internal Revenue Service or for refund of taxes paid based on such deficiency. The Lessor shall not be required to take any action as set forth in this paragraph unless and until the Lessee shall have agreed to indemnify the Lessor in a manner satisfactory to the Lessor for any liability or loss which the Lessor may incur as a result of taking such action and shall have agreed to pay the Lessor on demand all out-of-pocket costs and expenses, including without limitation reasonable attorneys' fees and expenses, incurred by the Lessor in connection with taking such action. In the event that the Lessor pays the tax resulting from a proposed adjustment and proceeds to seek a refund thereof, the Lessee agrees to pay the Lessor an amount equal to interest at the rate per annum currently charged by the Internal Revenue Service on deficiencies on the amount of tax in question from the date of payment of such tax to the date of final determination of such adjustment, such amount to be payable in equal installments within each calendar year on the dates on which rental for such period is payable under this Lease. Upon receipt by the Lessor of a refund of any tax paid by it in respect of which the Lessee paid an amount equal to interest at the rate provided in the preceding sentence while such tax payment was contested by the Lessor, an amount equal to the aggregate amount of such interest shall be paid by the Lessor to the Lessee forthwith. Upon completion of the action set forth in this paragraph, the Lessee's liability with respect to its required indemnity under this Section 21 shall become fixed and determinable.

For purposes of this Section 21, the term "Lessor" shall include any affiliated group, within the meaning of section 1504 of the Code, of which the Lessor is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If at any time prior to the disposition of a Unit in a taxable transaction, the Lessor is required to include in its gross income an amount in respect of any improvement and/or addition to such Unit made by the Lessee which is not readily removable from such Unit without causing material damage to such Unit (such improvements or additions being hereinafter called Improvements), then the Lessee shall pay to the Lessor, as an indemnity, such amount or amounts which, after deduction of all Taxes required to be paid by the Lessor in respect of the receipt of such amounts, shall be equal to the sum of the additional Federal, state or local income taxes payable by the Lessor from time to time as a result of such Improvement plus the amount of any interest, penalties or additions to tax payable as a result of any such Improvement (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Improvement the aggregate Federal, state and local income taxes paid by the Lessor for any taxable year shall be less than the amount of such taxes which would have been payable by the Lessor had no such Improvement been made, then the Lessor shall, upon realization of the savings or reduction in all such taxes due and owing, pay the Lessee the amount of such savings in taxes plus any additional tax benefits realized by the Lessor as a result of such payment; provided, however, that the Lessor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by Lessee to the Lessor pursuant to this paragraph in respect of any Improvement less (y) the amount of all prior payments by the Lessor to the Lessee hereunder, and the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Lessor pursuant to the first sentence of this paragraph. For purposes of computing any amounts payable to the Lessor and any amounts payable to the Lessee pursuant to this paragraph, the statutory rate of Federal, state or local income tax, as the case may be, shall be used. The amount payable to the Lessor pursuant to this paragraph shall be paid within 30 days after receipt of the written demand therefor from the Lessor (but not prior to payment by the Lessor of the additional taxes which become due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee from the Lessor pursuant to this paragraph shall be paid immediately after the Lessor actually receives and realizes any such savings in its income taxes or additional

tax benefits, as the case may be. The Lessor agrees to contest the inclusion in its gross income of any amount with respect to an Improvement to the extent, and under the circumstances, set forth in the ninth paragraph of this Section 21 as if such inclusion were a Loss.

The Lessee agrees that, within 90 days after the close of any calendar year (or in the event that the Lessor gives the Lessee written notice that the Lessor's taxable year closes on a date specified therein other than December 31, within 90 days after said date) in which the Lessee has made Improvements, the Lessee will give written notice thereof to the Lessor, describing such Improvements in reasonable detail and specifying the cost thereof with respect to each Unit.

In the event that any indemnity payments are required to be made by the Lessee, or in the event the amount of rentals under this Lease are adjusted, pursuant to any paragraph of this Section 21, the damages and amounts set forth in Section 10 of this Lease and the applicable Casualty Values set forth in Schedule B of this Lease shall be appropriately adjusted by the Lessor. Such adjustments required to be made pursuant to this paragraph shall be made by the Lessor and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Lessor in originally evaluating the Lease except for the assumption that has resulted in such adjustment. In connection therewith, the Lessor shall provide the Lessee with a certificate of an officer of the Lessor setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in Section 10 of this Lease and the applicable Casualty Value set forth in Schedule B to this Lease, if any payment of such damages, amounts or Casualty Values shall have been made by the Lessee prior to the adjustments made pursuant to this paragraph, (a) the Lessee shall pay to the Lessor the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Lessor shall pay to the Lessee the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this Section 21 shall survive the expiration or other termination of this Lease.

The Lessee shall have the right, upon demand, to have an independent party selected by the Lessee, and approved by the Lessor, which approval shall not be unreasonably withheld, review any calculations made by the Lessor pursuant to this Section 21 to determine the consistency of the methods and the assumptions used in such calculations with those used by the Lessor in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

SECTION 22. Severability; Effect and Modification of Lease; Third Party Beneficiaries. 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 leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, between the parties hereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party.

SECTION 23. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument.

SECTION 24. Law Governing. The terms of this lease and all rights and obligations hereunder shall be governed by the laws of the State of Michigan; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. §11303.

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

WESTINGHOUSE LEASING
CORPORATION, as Lessor

By R.T. Jackson
VICE PRESIDENT

GRAND TRUNK WESTERN RAILROAD
COMPANY, as Lessee

By MAA

SCHEDULE A TO
LEASE OF RAILROAD EQUIPMENT

The following boxcars, owned by the Lessor, were accepted by the Lessee as of July 1, 1981 pursuant to the Letter Agreement:

Road Numbers

GTW 309700 - 309746 (47 cars)

GTW 309748 - 309799 (52 cars)

Additional boxcars not accepted as of July 1, 1981:

Road Number

NSL 10147; to be renumbered

GTW 30747 when accepted by the Lessee.

SCHEDULE B TO
LEASE OF RAILROAD EQUIPMENT

Casualty Value

The Casualty Value of each Unit as of each rental payment date in respect thereto shall be that percentage of the Purchase Price of such Unit as is set forth below opposite the indicated Rental Payment Date and shall be in addition to the rental payment due on such Rental Payment Date.

<u>Rental Payment Date</u>	<u>Percentage</u>
7/31/81	96.06
10/31/81	95.69
1/31/82	95.26
4/31/82	94.79
7/31/82	94.26
10/31/82	93.69
1/31/83	93.06
4/31/83	92.38
7/31/83	85.25
10/31/83	84.47
1/31/84	83.65
4/31/84	82.78
7/31/84	81.85
10/31/84	80.89
1/31/85	79.87
4/31/85	78.81
7/31/85	71.28
10/31/85	70.13
1/31/86	68.93
4/31/86	67.68
7/31/86	66.37
10/31/86	65.04
1/31/87	63.65
4/31/87	62.22
7/31/87	60.74
10/31/87	59.22
1/31/88	57.67
4/31/88	56.06
7/31/88	54.41
10/31/88	52.72
1/31/89	50.99
4/31/89	49.22

7/31/89	47.40
10/31/89	45.55
1/31/90	43.66
4/31/90	41.73
7/31/90	39.74
10/31/90	37.74
1/31/91	35.69
4/31/91	33.61
7/31/91	31.47
10/31/91	29.31
1/31/92	27.12
4/31/92	24.88
7/31/92	22.58
10/31/92	20.27
1/31/93	20.00
(4/93 and thereafter)	20.00

Purchase Price \$34,000 per Unit