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15050/B

No. 6-252A021

Date SEP 9 1986

Fee $ 20.00

ICC Washington, D. C.

GREEN DOCS

September 8, 1986

Chicago and North Western Transportation Company
Lease Financing Dated as of August 1, 1986
10.2% Conditional Sale Indebtedness
Due July 2, 2001
[30 Locomotives]

Dear Ms. McGee:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Chicago and North Western Transportation Company, for filing and recordation counterparts of the following documents:

New Lr.

1. (a) Conditional Sale Agreement dated as of August 1, 1986, between United States Trust Company of New York, as Vendee, and General Motors Corporation (Electro-Motive Division), as Builder; and

— A

(b) Agreement and Assignment dated as of August 1, 1986, between General Motors Corporation (Electro-Motive Division), as Builder, and Mercantile-Safe Deposit and Trust Company, as Agent.

— B

2. (a) Lease of Railroad Equipment dated as of August 1, 1986, between Chicago and North Western Transportation Company, as Lessee, and United States Trust Company of New York, as Vendee; and

— C

(b) Assignment of Lease and Agreement dated as of August 1, 1986, between United States Trust Company of

Donald Downing

New York, as Vendee, and Mercantile-Safe Deposit and Trust Company, as Agent.

The names and address of the parties to the aforementioned agreements are as follows:

1. Agent:

   Mercantile-Safe Deposit and Trust Company
   Two Hopkins Plaza
   Baltimore, Maryland 21203

2. Vendee-Lessor:

   United States Trust Company of New York
   45 Wall Street
   New York, New York 10005

3. Builder-Vendor:

   General Motors Corporation
   (Electro-Motive Division)
   LaGrange, Illinois 60525

4. Lessee:

   Chicago and North Western
   Transportation Company
   One North Western Center
   165 N. Canal Street
   Chicago, Illinois 60606

Please file and record the documents referred to in this letter and index them under the names of the Agent, the Vendee-Lessor, the Builder-Vendor and the Lessee.

The equipment covered by the aforementioned documents is listed on Exhibit A attached hereto. The equipment bears the legend "Ownership Subject to a Security Agreement Filed with The Interstate Commerce Commission".

There is also enclosed a check for $20 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
as Agent for
Chicago and North Western
Transportation Company

Noreta R. McGee, Secretary,
Interstate Commerce Commission,
Washington D.C. 20423

Encls.

Annex B
to
Conditional Sale Agreement

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)*	Unit Base Price**	Total Base Price**	Estimated Time and Place of Delivery
Part A: SD-60 3,800 h.p. diesel electric locomotives	EMD Specification 8128, Amendment 8128-3 and Opening Specification No. 867147 dated March 19, 1986, as supplemented by the Final Specifications Supplement date as of June 23, 1986.	McCook Illinois	30	CNW 8001 through CNW 8055	$1,295,000	$38,850,000	Prior to October 10, 1986, at Lessee's Proviso Yard at Melrose Park, Illinois.
Part B: Additional Equipment to be supplied by Lessee	-	-	30		25,000	750,000	
					$1,320,000	$39,600,000	

* The road numbers listed are for all units of Equipment to be delivered under this Conditional Sale Agreement and certain other conditional sale agreements. After all units of Equipment have been delivered and accepted hereunder, an appropriate amendment to this Annex B will be filed with the Interstate Commerce Commission to reflect the road numbers of the units of Equipment actually delivered and accepted hereunder.

** Including prepaid freight charges estimated to be $900 per unit to Melrose Park, Illinois.

Exhibit A

RECORDATION NO. 15050-B Filed & Recorded

SEP 9 1985 3-1 5 PM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 2046-262B]

LEASE OF RAILROAD EQUIPMENT

Dated as of August 1, 1986

Between

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY,
Lessee,

and

UNITED STATES TRUST COMPANY OF NEW YORK,
as Trustee Under a Trust Agreement,
Lessor

[Covering 30 GMC-EMD SD-60 Diesel Electric Locomotives]

The rights and interests of the Lessor under this Lease are subject to a security interest in favor of Mercantile-Safe Deposit and Trust Company, as Agent for certain Institutional Investors. The original of this Lease is held by said Agent.

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* This Table of Contents has been included in this document for convenience only and does not form a part of or affect any construction or interpretation of this document.

LEASE OF RAILROAD EQUIPMENT dated as of August 1, 1986, between CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation (the "Lessee"), and UNITED STATES TRUST COMPANY OF NEW YORK, a New York corporation, not individually but solely as trustee (the "Lessor") under a Trust Agreement dated as of the date hereof (the "Trust Agreement"), with the Owner, as defined in the Participation Agreement hereinafter mentioned (the "Owner").

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with General Motors Corporation (Electro-Motive Division) (the "Builder"), wherein the Builder has agreed to manufacture and conditionally sell to the Lessor, the units of railroad equipment described in Part A of Schedule A hereto to which may be added automatic train control devices, cab radios, receivers for end-of-train devices and any other equipment to be provided and installed by the Lessee ("Additional Equipment"), described in Part B of Schedule A hereto (the units of railroad equipment together with all Additional Equipment, whether or not settled for under the Participation Agreement defined below, are hereafter called the "Equipment");

WHEREAS the Builder is assigning its interests in the CSA to Mercantile-Safe Deposit and Trust Company, acting as agent (said bank, as so acting, being hereinafter together with its successors and assigns and, where not inconsistent with the provisions hereof, Investors, as hereinafter defined, called the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") with the Lessee, the Lessor, the Owner, and the parties named in Schedule B thereto (said parties, together with their successors and assigns, being hereinafter called the "Investors");

WHEREAS the Lessee desires to lease such number of units of Equipment as are delivered to and accepted by the Vendee and settled for under the CSA (the "Units") at the rentals and upon the terms and conditions hereinafter provided; and

WHEREAS the parties contemplate that the Lessor will assign, for security purposes, certain of its rights in this Lease to the Vendor by an Assignment of Lease and

Agreement dated as of the date hereof (the "Lease Assignment"), and the Lessee will consent thereto by a Lessee's Consent and Agreement (the "Consent");

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

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or additional rent, or setoff against or recoupment or reduction of rent or additional rent, including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against a Lessor under this Lease or the CSA, or against an Owner, the Builder or the Vendor or otherwise. The Lessee's obligations hereunder, including its obligations to pay all rentals, additional rentals and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect, whether latent or patent, 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, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the

Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Lessor under the CSA shall be deemed to be a delivery to the Lessee under this Lease at the point or points within the United States of America at which such Unit is delivered to the Lessor under the CSA. Upon such delivery, the Lessee will cause an employee of the Lessee to inspect the same and, if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of inspection and acceptance (the "Certificate of Inspection and Acceptance") substantially in the form annexed hereto as Schedule D, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee hereunder and shall be subject thereafter to all the terms and conditions of this Lease. The delivery, inspection and acceptance hereunder of any Unit of Equipment excluded from the CSA pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such Unit to this Lease or to constitute acceptance thereof on behalf of the Lessor for any purpose whatsoever.

§ 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit, one interim rental payment payable on January 2, 1987, and 30 consecutive semiannual rental payments in arrears payable on January 2 and July 2 in each year, commencing July 2, 1987, to and including January 2, 2002 (each of January 2, 1987, and such 30 consecutive dates being hereinafter called a "Rental Payment Date"). The 30 semiannual rental payments shall each be in an amount equal to the percentage set forth in Schedule B hereto for the applicable Rental Payment Date multiplied by the Purchase Price (as defined in Article 4 of the CSA) of each Unit subject to this Lease. The 30 semiannual rental payments set forth above have been calculated on the assumptions that (i) the Units (exclusive of Additional Equipment) will be delivered and accepted June to September, 1986, the Additional Equipment will be delivered and accepted October to November, 1986, and the weighted average date of all Closing Dates will be August 1, 1986, (ii) no fees and expenses will be payable by the Owner pursuant to Paragraph 13 of the Participation Agreement and (iii) no Change in Tax Law (as defined in Section 7 of the Indemnity

Agreement) will occur. If any of the foregoing assumptions prove to be incorrect, the 30 semiannual rental payments (and the related Casualty and Termination Values set forth in Schedule C hereto) will be adjusted upward or downward by the minimum amount necessary so that the Owner's pre-tax economic yields, net after-tax cash flows and return on investment (computed on the same assumptions, including tax rates, as were utilized by the Owner in originally evaluating this transaction) shall at least equal the pre-tax economic yields, net after-tax cash flows and return on investment (such pre-tax economic yields, net after-tax cash flows and return on investment being hereinafter called the "Net Economic Return") that would have been realized by the Owner in accordance with the assumptions stated above, it being understood that such adjustment may require that one or more of such economic standards exceed the amount or percentage derived in the original calculation of such economic standard in order to preserve all such economic standards; provided, however, that in no event shall such rental payments or the related Casualty Values and Termination Values be reduced below the amounts thereof necessary to satisfy the obligations of the Lessor under the CSA. The Lessor shall provide a schedule of such rentals and Casualty Values to the Lessee and the Vendor promptly after the facts have been determined and the calculations have been made. The Lessee also agrees to pay the Lessor an interim rental payment payable on January 2, 1987 (the "Basic Rent Commencement Date"), equal to the accrued and unpaid interest on the CSA Indebtedness due on said date.

In addition to the rentals set forth above, the Lessee agrees to pay to the Lessor as additional rentals amounts which, after deduction of any taxes payable in respect of such amounts, will be equal to the amounts required by the Lessor to make the payments provided for in the last paragraph of Paragraph 10 of the Participation Agreement to the extent that the remaining cash and proceeds of the Investments (as defined therein) available to the Lessor and the payments made to the Lessor by the Owner as specified in said Paragraph are insufficient to enable the Lessor to make such payment, in each case on the dates the Lessor is required to make such payments (without regard to any limitation of the obligation of the Lessor set forth therein) and the Lessor agrees to apply such rentals for such purposes. In the event that the Lessor is required to make the payment provided for in the third from last sentence of the fourth paragraph of Paragraph 2 of the Participation Agreement, the rentals payable by the Lessee after such payment is made shall be increased by such amounts as

shall, in the reasonable opinion of the Owner, cause such Owner's Net Economic Return to equal the Net Economic Return that would have been realized by such Owner if such payment had not been made.

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

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this § 3 and in § 7 hereof, but excluding all payments not assigned to the Vendor pursuant to the Lease Assignment, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor under the CSA, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Vendor by 11:00 a.m., Maryland time, on the date such payment is due.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the final Rental Payment Date. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9 and 14 hereof) shall survive the expiration or termination of the term of this Lease and the full payment of all amounts payable under this Lease.

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

however, that, so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 12 hereof.

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

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees

to pay, or cause to be paid, and to indemnify and hold the Lessor and the Vendor harmless from, all taxes (income, gross receipts, franchise, 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, an Owner, the Vendor, the Lessee, an Investor or the trust estate created by the Trust Agreement or otherwise, by any Federal, state or local government or governmental subdivision in the United States of America or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, nondelivery, rejection, leasing, possession, sale, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Lease, the CSA, the CSA Assignment, the Lease Assignment, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to any Unit (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 of America or any state or political subdivision thereof imposed on or measured solely by the net income or excess profits of the Lessor, the Vendor or an Owner, or value-added taxes in lieu of any such net income or excess profits taxes, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease; (ii) any Taxes imposed on or measured by any fees or compensation received by the Lessor or the Vendor; (iii) franchise taxes based on the corporate characteristics of the Lessor or the Owner; (iv) any tax or similar charge included in the Purchase Price of the Equipment; and (v) Taxes imposed by a foreign government or taxing authority or governmental subdivision of a foreign country to the extent such Taxes are utilized by the Owner as a credit against United States Federal income taxes otherwise payable by the Owner; 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 below in this § 6.

In the event any returns, statements or reports with respect to any Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor, the Owners and the Vendor in such Units, as shall be satisfactory to the Lessor, the Owner and the Vendor or, where

not so permitted, will notify the Lessor, the Owner and the Vendor of such requirement and will prepare and deliver such reports to the Lessor, the Owner and the Vendor within a reasonable period of time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Lessor, the Owner and the Vendor.

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

If claim is made against any indemnified party for any Taxes indemnified against under this § 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing and so long as the Lessee is prohibited or impaired from doing so in its own name, such indemnified party shall, upon receipt of indemnity reasonably 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 legally permissible (provided that the nonpayment thereof does not, in the opinion of the indemnified party, adversely affect the interests of the indemnified party in and to the Units), (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 applicability or amount of such Taxes in the name of the indemnified party; provided, however, 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 indemnified party in any such proceeding or action) without the prior written consent of the indemnified party. If such indemnified party 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, such indemnified party shall pay the Lessee the amount of such refund or interest net of expenses; provided, however, 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, whenever reasonably requested by the Lessor or the Owner, submit to such party copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to such party of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as such party reasonably may require to permit such party's compliance with the requirements of taxing jurisdictions, including data available to the Lessee relating to use of any Unit outside the United States.

The amount which the Lessee shall be required to pay with respect to any Taxes which are subject to indemnification under this § 6 shall be an amount sufficient to restore the indemnified party to the same net after-tax rate of return and after-tax cash position, after considering the effect of such payment on its United States Federal income taxes and state and city income taxes or franchise taxes based on net income, that such indemnified party would have been in had such Taxes not been imposed.

The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee or any subsidiary or affiliated corporation of the Lessee of the payment of any installments of principal or interest payable under the CSA, or a guarantee of any residual value of the Units following the expiration of the term hereof as such term may or may not be renewed.

§ 7. Maintenance; Casualty Occurrences; Insurance; Termination. The Lessee at its own expense will maintain and service each Unit (including any parts installed or replacements made to any unit and considered an Addition [as defined in § 9 hereof] hereunder) which will include testing, repair and overhaul of each Unit at least in like manner as locomotives owned or leased by the Lessee and so that each Unit will remain (a) in as good operating condition as when delivered (ordinary wear and tear excepted), (b) in compliance with any and all applicable laws and regulations and (c) eligible for railroad interchange in accordance with the interchange rules of the Association of American Railroads, if such rules are applicable.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, permanently returned to the Builder pursuant to any patent indemnity provision of the CSA, or taken or requisitioned by condemnation or otherwise by the

United States Government for a stated period which shall exceed the then remaining term of this Lease or for an indefinite period, but only when such period shall exceed the term hereof (or, if such taking, requisition or condemnation shall occur during a renewal term, for a stated period which shall exceed the then remaining renewal term or for an indefinite period, but only when such period shall exceed such renewal term), or by any other government or governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days (such occurrences being hereinafter called "Casualty Occurrences"), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully notify the Lessor, the Owner and the Vendor with respect thereto. On the Rental Payment Date next succeeding such notice (the "Casualty Payment Date"), the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on the Casualty Payment Date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the Casualty Payment Date. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or permanent return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

The "Casualty Value" of each Unit as of any Rental Payment Date shall be an amount equal to that percentage of the Purchase Price of such Unit as is set forth in Schedule C hereto opposite such date; provided, however, that if the Casualty Value for any Unit as of such payment date as determined pursuant to Schedule C reflects an amount representing investment credit recapture to the Owner that is greater or lesser than the actual amount of investment credit recapture incurred by the Owner pursuant to the Internal Revenue Code of 1954, as amended, as a result of the Casualty Occurrence to such Unit, the Casualty Value for such Unit as so determined shall be appropriately decreased or increased so as to reflect the actual amount of investment credit recapture incurred by the Owner as a result of the Casualty Occurrence to such Unit; and, provided further, however, that while the CSA Indebtedness is outstanding, the Casualty Values hereunder shall never be less than the corresponding Casualty Values under Article 7 of the CSA.

Whenever any Unit shall suffer a Casualty Occurrence after the final payment of rent in respect thereof is

due pursuant to § 3 hereof and before (a) such Unit shall have been returned in the manner provided in § 14 hereof, and (b) the storage period therein provided with respect to such Unit shall have expired, the Lessee shall promptly (as provided above) and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall, except as otherwise provided in § 13 hereof, be an amount equal to 20% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit or return to the Builder of such Unit), the Lessor shall be entitled to recover possession of such Unit.

In the event of the requisition (other than a requisition which constitutes a Casualty Occurrence) for use by the United States Government or by any other government or governmental entity (hereinafter collectively called the "Government") of any Unit during the term of this Lease or any renewal thereof, all of the Lessee's obligations (including, without limitation, the obligation to pay rent) under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence, or any component thereof, at the best price obtainable on an "as is, where is" basis and the Lessee shall notify the Lessor and the Owner prior to any such sale. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided no Event of Default (or other event which after

notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit plus the Lessee's out-of-pocket expenses in connection with such sale and shall pay any excess to the Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit permanently returned to the Builder pursuant to any patent indemnity provision of the CSA an amount equal to any net patent indemnity payment in respect of such Unit made by the Builder to the Vendee under the CSA. The Lessee will pay all costs and expenses in connection with the sale of any Unit pursuant to a Casualty Occurrence.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained (and shall furnish to the Lessor, the Owner and the Vendor a certificate evidencing) property insurance and public liability insurance in respect of the Units at the time subject hereto, in amounts (subject to customary deductibles) and against risks customarily insured against by the Lessee on locomotives owned or leased by the Lessee and, if customary, the Lessee may self insure through the use of deductible amounts customary in the railroad industry, but in any event consistent with prudent industry standards. Any policies of insurance carried in accordance with this paragraph, including, without limitation, liability insurance obtained after the date hereof, shall name the Lessor, the Owner and the Vendor as additional insureds as their respective interests may appear and shall provide for 30 days' prior written notice to the Lessor, the Owner and the Vendor of any material change or cancellation provide that losses are payable notwithstanding, among other things, any act of negligence of the Lessee, the Lessor or the Vendor, more hazardous use or occupation of the Units than that permitted by such policies, any breach or violation by the Lessee, the Lessor or the Vendor of any warranty, declaration, condition or other provision contained in any such policy, or foreclosure, notice of sale or any other proceeding in respect of the Units, or any change in the title to or ownership of any of the Units if and to the extent that such provisions are available at commercially

reasonable rates. If the Lessor shall receive any property insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee's having made payment of the Casualty Value in respect of such Unit and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. Provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, all insurance proceeds received by the Lessor from the Lessee's property insurance coverage in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

In the event that the Lessee shall, in its reasonable judgment evidenced by a resolution of its Board of Directors, determine that the Units have become economically obsolete in the Lessee's business or shall be surplus to its requirements or it is not feasible to comply with the provisions of the second paragraph of § 9 hereof, the Lessee shall have the right, on at least 180 days' prior written notice to the Lessor, to terminate this Lease as of any succeeding Rental Payment Date specified in such notice (hereinafter called the "Termination Date"); provided, however, that (i) the Termination Date shall not be earlier than January 2, 1994, (ii) each holder of CSA Indebtedness shall have consented to such termination and the concurrent prepayment of the CSA Indebtedness or CSA Indebtedness shall not be outstanding, (iii) no Event of Default or other event which after lapse of time or notice or both would become an Event of Default shall have occurred and be continuing (other than pursuant to a violation of the second paragraph of § 9 hereof), and (iv) on the Termination Date each Unit shall be in the same condition as if redelivered pursuant to § 14 hereof. During the period from the termination notice until the fifth business day preceding the Termination Date, the Lessee shall use its best efforts, and the Lessor may assist if it so chooses, to obtain bids for the purchase of all the Units, and the Lessee shall at least five business days prior to such Termination Date certify to the Lessor the amount of each such bid and the name and address of the party submitting such bid. On the Termination Date the

Lessor may elect to sell all the Units for cash to the bidder who shall have submitted the highest bid prior to the Termination Date. The total sale price realized at any such sale shall be retained by the Lessor and on the Termination Date the Lessee shall pay to the Lessor (a) the excess, if any, of the Termination Value for each Unit computed as of such date over the sale price of the Unit after the deduction of all expenses incurred by the Lessor in connection with the sale and (b) the rental payment due on the Termination Date; and from such proceeds and payments the Lessor shall pay to the Agent on the Termination Date an amount necessary to prepay in full the CSA Indebtedness, including accrued and unpaid interest and premium, if any, as contemplated by clause (ii) above. The Termination Value of each Unit as of the Termination Date shall be that percentage (as may be adjusted pursuant to § 3 hereof) of the Purchase Price of the Unit as is set forth in Schedule C hereto opposite such date. The Lessor may, however, by written notice to the Lessee given prior to the Termination Date, elect to retain all the Units, in which case (1) the Lessee shall not be obligated to pay the Termination Value to the Lessor and (2) the Lessee shall deliver all the Units to the Lessor in accordance with the provisions of § 14 hereof.

§ 8. Reports and Inspection. On or before April 30 in each year, commencing with the calendar year 1987, the Lessee will furnish to the Lessor, the Vendor and the Owner an accurate statement (i) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, and (ii) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the CSA have been preserved or replaced. In addition, within 15 days following the renewal date of any insurance coverage hereunder, a certification of insurance coverage from the Lessee's insurer or independent broker stating the amounts of such insurance in effect and the amount of deductible. The Lessor, at its sole cost and expense, shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease, but

the Lessor shall have no obligation to do so. The Lessee shall promptly notify the Lessor and the Vendor of any material changes or any material proposed changes of which the Lessee has knowledge in its insurance coverage in effect with respect to the Equipment pursuant to § 7 hereof.

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

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR NEITHER MAKES, HAS MADE NOR SHALL BE DEEMED TO MAKE, ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR AS TO THE LESSEE'S RIGHT TO QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE LESSOR), OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT, 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 Builder under the provisions of Items 3 and 4 of Annex A to the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation,

subleasing, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Inspection and Acceptance shall be conclusive evidence as between the Lessee and the Lessor (but not as between any party and the Builder) 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 and the Vendor, at all times to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which operations involving the Units extend, with the interchange rules of the Association of American Railroads (which term shall include any successor organization thereof), if applicable, and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called the "Applicable Laws"), and in the event that, prior to the expiration of this Lease or any renewal thereof, the Applicable Laws require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Lessor, the Owner or the Vendor, adversely affect the property or rights of the Lessor, the Owner or the Vendor under this Lease or under the CSA. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements (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 United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (collectively "Additions") 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, 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, and shall not render the Units ineligible for interchange service under the rules of the Association of American Railroads. Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Lessor and be subject to a valid first lien and prior perfected security interest under the CSA 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 provisions of the first paragraph of § 7 hereof or the terms of the first sentence of this paragraph or is Additional Equipment required to be installed on the Units pursuant to the Participation Agreement; or (iii) 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 and may be removed by the Lessee at any time during the term of this Lease and prior to the renewal thereof and prior to the return of the Units to the Lessor pursuant to § 14 hereof. The term "Part" for the purposes of this paragraph 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.

The Lessee agrees to indemnify, protect and hold harmless the Lessor (in both its individual and fiduciary capacities), the Owner and the Vendor and their respective successors, assigns, agents and servants from and against all losses, damages, injuries, liabilities, claims (including, without limitation, claims for strict liability in tort and claims based on the passive or active negligence of an indemnified person) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses,

patent, trademark or copyright liabilities, penalties and interest, arising out of or alleged to arise out of or as the result of the entering into or the performance of or the occurrence of a default, an event of default or an Event of Default under the CSA, the Participation Agreement, this Lease, or any sublease entered into pursuant to § 12 hereunder, the ownership of any Unit, the ordering, acquisition, replacement, operation, use, condition (including any latent or patent defects in any Unit), purchase, delivery, rejection, storage or return of any Unit or any accident in connection with, or alleged to have occurred in connection with, the ordering, acquisition, replacement, operation, use, condition, purchase, delivery, possession, storage or return of any Unit resulting in damage to or loss of property or injury or death to any person, except as otherwise provided in § 14 of this Lease, the transfer of title to the Equipment by the Vendor pursuant to any provision of the CSA or the alleged violation of the terms of any agreement, this Lease or any law, regulation, ordinance or restriction affecting the Units, except any matter otherwise indemnified by the Lessee caused by any act or omission of the Lessor or the Owner not related to transactions contemplated by the Documents (as defined in the Participation Agreement) or caused by an act or omission of an indemnified person in violation of the provisions of its Documents provided that this exception shall not apply to any matter with respect to which the Vendor is claiming indemnification to the extent of the Vendor's claim unless such claim was the direct result of the Vendor's default under its Documents (all of which matters indemnified against pursuant to the above being hereinafter called the "Indemnified Matters"). The amount the Lessee shall be required to pay with respect to any Indemnified Matter shall include a payment to the indemnified person sufficient to restore such person to the same position, after considering the effect of such payment on its United States Federal income taxes and state and city income taxes or franchise taxes based on net income, that the indemnified person would have been in had the Indemnified Matter not been incurred. The Lessee shall be obligated under this § 9, irrespective of whether any indemnified person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the indemnified person seeking to enforce the indemnification may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification.

The Lessee further agrees to indemnify, protect and hold harmless the Lessor (both individually and in its

fiduciary capacity) and the Vendor and the Owner, as third-party beneficiaries hereof, 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 Vendor, an Owner or the Lessor because of the use in or about the construction or operation of any of the Units of any article or material specified by the Lessee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the Builder of any claim known to the Lessee from which liability may be charged against the Builder with respect to the foregoing.

The Lessee shall not be released from its obligations hereunder in the event of any damage to or the destruction or loss of any or all of the Units.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required filing date (or, to the extent permissible, file on behalf of the Lessor or an Owner) any and all reports (other than tax returns, except as otherwise provided in § 6 hereof) to be filed by the Lessor or an Owner with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units, or the leasing thereof to the Lessee.

None of the indemnities in this § 9 shall be deemed to create any rights of subrogation, from or under any indemnified person, in any insurer or third party against the Lessee or the Lessor therefor, 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 the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Units. The indemnities contained in this § 9 shall survive the expiration or termination of this Lease and return of the Units as provided in §§ 11 or 14 hereof 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.

Upon the payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no

Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing (i) the Lessee shall be subrogated to any right of such indemnified person (except against another indemnified person) in respect of the matter against which indemnity has been given and (ii) 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 § 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 matter.

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

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

(B) 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, and the Lessee shall, for more than 30 days after demand in writing by the Lessor, fail to secure a reassignment or retransfer to the Lessee of such Lease, interest or right;

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

(D) a petition for reorganization under 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 and the Consent shall not have been and shall not

continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed and otherwise in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, as the same may hereafter be amended; or

(E) any other proceeding 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 or under the Consent), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Consent 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 expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced;

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, subject to compliance with all mandatory requirements of law, enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 7% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (B) any damages and expenses, including reasonable attorneys' fees in addition thereto, which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental; 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 sales value of such Unit at such time; <u>provided</u>, <u>however</u>, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clause (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, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the Rental Payment Date on or next preceding the date of termination, over the net proceeds of such sale.

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

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf. The Lessee hereby waives any and all claims against the Lessor and the Vendor and their agent or agents for damages of whatever nature in connection with any retaking of any Unit in any reasonable manner.

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

If the Lessee fails to perform or comply with any agreement, covenant or condition contained in this Lease, and such nonperformance or noncompliance could, with the lapse of time and/or demand or failure to take action, result in an Event of Default under clause (A) or (C) of this § 10, the Lessor may (but shall not be required to),

upon notice to the Lessee, itself perform or comply with such agreement, covenant or condition and the amount of the reasonable costs and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amounts at the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for unsecured 90-day loans to large corporate borrowers at the time in effect, shall be payable to the Lessor by the Lessee upon demand. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor against the Lessee hereunder or be deemed to cure a default by the Lessee hereunder.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Except as hereinafter provided, each Unit so delivered shall be in the condition required by clauses (a), (b) and (c) of the first sentence of § 7 hereof. For the purpose of delivering possession, the Lessee shall:

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

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance (which shall conform to the provisions of § 7 hereof), rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

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

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

the covenants of the Lessee so to assemble, deliver, store and transport the Units. Except as hereinafter provided, during any storage period, the Lessee will, at its own expense, maintain and keep the Equipment in the condition required by clauses (a), (b) and (c) of the first sentence of § 7 hereof and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All rent and per diem charges earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

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

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor to any successor Lessor which may be appointed pursuant to Article VII of the Trust Agreement or to any banking or financial institution which has a combined capital and surplus of at least $50,000,000 and which does not have an interlocking relationship with the Lessee within the meaning of Section 10 of the Clayton Act. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's successors and assigns.

So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and, without the prior written consent of the Lessor and the Vendor, the Lessee may sublease (which sublease by its terms shall be subject and subordinate to the rights and remedies of the Lessor and the Vendor hereunder) the Units to, or permit their use by, a user incorporated in the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States of

America (or any State thereof or the District of Columbia), or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains or over which their equipment is regularly operated pursuant to contract, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Vendor's and the Lessor's consent, not to be unreasonably withheld, must be obtained for any sublease that, taken together with all renewal terms provided for therein, would be longer than six months during any period of 12 consecutive months; provided further, however, that the Lessee shall not sublease or permit the sublease or use of any Unit to service involving operation or maintenance outside the United States of America except that occasional service in Canada shall be permitted so long as such service in Canada is on a temporary basis which is not expected to exceed a total of 90 days in any taxable year of an Owner, nor shall the Lessee sublease to or permit the sublease or use of any Unit by any person in whose hands such Unit would not qualify as "section 38" property within the meaning of the Internal Revenue Code of 1954, as amended to the date hereof. No such assignment or sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of the United States of America or any State thereof or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Lessee's other Documents (as defined in the Participation Agreement) into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all the lines of railroad of the Lessee; provided, however, that the Lessee is not in default under any provision of this Lease or the Lessee's other Documents immediately before the effectiveness of such merger, consolidation, lease or acquisition and that such assignee, lessee or transferee, immediately after the effectiveness of such merger, consolidation, lease or acquisition (i) will have a net worth of not less than the net worth of the Lessee immediately before such effectiveness and (ii) will not be in default under any provision of this Lease or the Lessee's other Documents.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance created by the Lessor, an Owner or the Vendor which is not contemplated by the Documents or resulting from claims against the Vendor, the Lessor or an Owner not related to the ownership or leasing of, or the security title or security interest of the Vendor to, the Units) which may at any time be imposed on or with respect to any Unit including any Addition, Part or accession thereto or the interest of the Vendor, an Owner or the Lessor therein; except that this covenant will not be breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is diligently contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the opinion of the Vendor, adversely affect the title, property or rights of the Lessor hereunder or the Vendor under the CSA.

§ 13. Right of Renewal; Purchase Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Lessor not less than 180 days prior to the end of the original or extended term of this Lease, elect to extend the term of this Lease in respect of all but not fewer than all the Units then covered hereby, for a period of two years (an "extended term") commencing on the scheduled expiration of the original or extended term of this Lease; provided, however, that the Lessee's rights of renewal shall not exceed four two year renewal periods.

The extended term of the Lease shall be on the same terms and conditions as are contained in the Lease, except (x) as to the amount of rentals, which shall be at a Fair Market Rental (as hereinafter defined) payable, in arrears, in semiannual payments on the dates on which such rentals were payable for the Units in each year of the original term and (y) that the Casualty Value of each Unit on the first day of the extended term shall be equal to the greater of (a) the Fair Market Purchase Price (as hereinafter defined) of such Unit on such date, or (b) the present

value as of such date, of all rentals payable during such extended term, discounted at a rate of 7% per annum, compounded semiannually, from the respective dates upon which such rentals are payable hereunder; and thereafter such Casualty Value shall be reduced on a straight-line basis (computed on the basis of a 360-day year of 12 30-day months over the estimated remaining useful life of such Unit which shall, if not agreed upon by the Lessor and the Lessee, be determined by appraisal consistent with the procedure hereinafter set forth) for the remainder of such extended term, all as determined by the procedures hereinafter established.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor, not less than 180 days prior to the end of the original term or any extended term of this Lease, elect to purchase all but not less than all the Units then subject to this Lease as are identified in Lessee's written notice, at a Fair Market Purchase Price payable in immediately available funds on the expiration of the original term or any extended term of this Lease.

Upon payment of the Fair Market Purchase Price of any Unit pursuant to an exercise by the Lessee of its right to purchase such Units, the Lessor shall execute and deliver to the Lessee, or upon request of the Lessee, to the Lessee's assignee or nominee, a bill of sale (without warranties, except as hereinafter provided in this clause) for such Units such as will transfer to the Lessee title to such Units free and clear of all claims, liens, security interests and other encumbrances created by or arising through the Lessor or either Owner, other than claims, liens, security interests and encumbrances which the Lessee is obligated to pay or discharge under or pursuant to this Lease. Notwithstanding the foregoing, if any Units so purchased are to be sold to the Lessee under a conditional sale agreement, the Lessor shall have the right to retain a security interest in such Units until such time as all payments in respect thereof have been made.

The Fair Market Rental and Fair Market Purchase Price shall be determined on the basis of, and shall be equal in amount to, the cash rental, or the purchase price (as of such date as the context herein requires), as the case may be, which would obtain in an arm's-length transaction between an informed and willing lessee or purchaser, as the case may be, and an informed and willing lessor or

seller, as the case may be (other than a lessee currently in possession), under no compulsion to lease or sell, as the case may be, but there shall be excluded from such determination any rental or purchase value attributable to additions, modifications and improvements which the Lessee is entitled to remove pursuant to § 9 hereof; provided, however, that Fair Market Rental shall be determined on the basis of the term and other terms and conditions of the lease being considered. In making such determination, costs of removal from the location of current use shall not be a deduction from such rental or purchase price and it shall be assumed that the Units have been collected in one place on the lines of the Lessee as directed by the Lessor. If, after 20 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease or the giving of notice by the Lessee that it intends to purchase the Units, as aforesaid, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental or Fair Market Purchase Price of the Units, such rental or purchase price shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such rental or purchase price 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 15 business days after such notice is given, each party shall appoint an independent appraiser within 20 business days after such notice is given, and the two appraisers so appointed shall within 25 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 25 business days after such notice is given, either party may request the American Arbitration Association to make such appointment, 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 Rental or the Fair Market Purchase Price, as the case may be, of the Units then subject to this Lease, within 30 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental or Fair Market Purchase Price, as the case may be, of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from that of the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be

final and binding upon the parties hereto as the Fair Market Rental or Fair Market Purchase Price, as the case may be. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental or Fair Market Purchase Price, as the case may be, 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. Except as otherwise provided herein, the Lessee and the Lessor shall equally share all appraisal procedure expenses.

§ 14. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or the extended term of this Lease with respect to any Unit, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit, if not purchased by the Lessee, to the Lessor upon such storage tracks of the Lessee as the Lessee may reasonably designate in such city on the lines of the Lessee as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may reasonably select, and permit the Lessor to store such Unit on such tracks for a period not exceeding 120 days following notification to the Lessor by the Lessee that 90% of the Units have been assembled and delivered for storage (or, with respect to any Unit not delivered at the time of such notification, 120 days following notification from the Lessee to the Lessor that such Unit has been delivered for storage) and transport the same, at any time within such 120-day period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as mutually agreed upon by the Lessor and the Lessee, the movement and storage of such Units to be at the expense and risk of the Lessee (which shall during such period maintain the insurance required by § 7 hereof); and in the event that any Unit shall suffer a Casualty Occurrence during such storage period, the Lessee shall pay the Lessor the Casualty Value thereof as provided in § 7 hereof. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of wilful misconduct, negligence or strict liability of the Lessee or of its employees or agents, for any injury to, or the death of, any

person exercising, on behalf of either the Lessor or any prospective purchaser, lessee or user, such rights of inspection. Except as hereinafter provided in this § 14, each Unit returned to the Lessor pursuant to this § 14 shall (except for additions, modifications and improvements which the Lessee is entitled to remove and does remove pursuant to § 9 hereof) be in the condition required by clauses (a), (b) and (c) of the first sentence of § 7 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own expense, maintain and keep the Units (except for additions, modifications and improvements which the Lessee is entitled to remove and does remove pursuant to § 9 hereof) in the condition required by clause (a) of the first sentence of § 7 hereof. Notwithstanding anything to the contrary contained in this § 14, the Lessee shall have no obligation under clause (b) or (c) of the first sentence of § 7 hereof after return of a Unit upon expiration of the original or any extended term of this Lease or with respect to a termination of the nature described in the last paragraph of § 7 hereof. All rent and per diem charges earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. If any Unit is not returned on a date within 90 days of the expiration of the original or any extended term of this Lease, the Lessee will pay to the Lessor as rental for such Unit from such date until such Unit is returned an amount equal to (a) the average semiannual rental payment payable with respect to such Unit during the original term hereof times (b) a fraction the numerator of which is the actual number of days from such date until the return of such Unit and the denominator of which is 180. Concurrently with each delivery of a Unit to the Lessor hereunder, the Lessee will deliver to the Lessor all records in its possession relating to the repair and maintenance history of such Unit, including without limitation all logs, schedules and computer data relating to such history of the type maintained in the ordinary course of business of the Lessee with respect to locomotives owned or leased by the Lessee.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the CSA and any assignment hereof or thereof to be filed in accordance with 49 U.S.C. § 11303 and deposited with the Registrar General of Canada (and notice

of such deposit to be given forthwith in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the CSA 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 or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective rights in the Units, or for the purpose of carrying out the intention of this Lease, the CSA and the assignments hereof and thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing, recording and other acts which may be required under this § 15, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the CSA, and the assignments thereof, shall be filed with the Interstate Commerce Commission and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision shall be made for publication of notice of such deposit in The Canada Gazette prior to the delivery and acceptance hereunder of any Unit.

§ 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount on the overdue rentals and other obligations for the period of time during which they are overdue at a rate equal to the higher of (i) 11.2% per annum or (ii) 3% above the prime commercial rate per annum announced from time to time as in effect by Manufacturers Hanover Trust Company (the "Overdue Rate"), or, if such rate is not legally enforceable, then at the highest legally enforceable rate.

§ 17. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at 45 Wall Street, 20th Floor, New York, New York 10005, Attention of Corporate Trust and Agency Division with a copy to the Owner at its address set forth in Schedule A to the Participation Agreement; and

(b) if to the Lessee, at One North Western Center, 165 N. Canal Street, Chicago, Illinois 60606, Attention of Assistant Vice President-Finance;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at P.O. Box 2258 (or, if by hand, Two Hopkins Plaza), Baltimore, Maryland 21203, Attention of Corporate Trust Department.

§ 18. 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.

Except for the Participation Agreement and the exhibits thereto, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized 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 (other than the Owner, the Agent, the Investors, the Builder and their permitted successors and assigns and those of 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 a third party except as aforesaid.

§ 19. Immunities. Anything herein to the contrary notwithstanding, each and all of the representations, warranties, undertakings and agreements herein made on the part of the Lessor are made and intended not as personal representations, warranties, undertakings and agreements by United States Trust Company of New York for the purpose or with the intention of binding it personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by the said trust company not in its

own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of wilful misconduct or gross negligence by said trust company, no personal liability or personal responsibility is assumed hereunder by or shall at any time be enforceable against the said trust company, on account of any representation, warranty, undertaking or agreement hereunder of the Lessor, either expressed or implied, all such personal liability (except as aforesaid), if any, being expressly waived by the Lessee and by all persons claiming by, through or under the Lessee; provided, however, that the Lessee or any person claiming by, through or under it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

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

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. It shall not be necessary that any counterpart be signed by both the parties hereto so long as each party hereto shall have executed and delivered one counterpart hereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of the filing or deposit hereof, if any, and of any assignment hereof and any markings on the Units as shall be conferred

by the laws of the several jurisdictions in which this Lease or any assignment hereof shall be filed or deposited.

§ 23. Lessor's Right To Perform. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may (but shall have no obligation to do so) upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor (including reasonable counsel fees, if any) incurred in connection with such performance or compliance, together with interest on such amount at the Overdue Rate, shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder or, for the purpose of Article 15 of the CSA, be deemed to cure an Event of Default hereunder.

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

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY,

by

_____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

UNITED STATES TRUST COMPANY
OF NEW YORK, not individually
but solely as Trustee,

by

_____
Assistant Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

by the laws of the several jurisdictions in which this Lease or any assignment hereof shall be filed or deposited.

§ 23. Lessor's Right To Perform. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may (but shall have no obligation to do so) upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor (including reasonable counsel fees, if any) incurred in connection with such performance or compliance, together with interest on such amount at the Overdue Rate, shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder or, for the purpose of Article 15 of the CSA, be deemed to cure an Event of Default hereunder.

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

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

UNITED STATES TRUST COMPANY
OF NEW YORK, not individually
but solely as Trustee,

by _____
Assistant Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

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

On this 5th day of September 1986, before me personally appeared T. A. Tingleff, to me personally known, who, being by me duly sworn, says that he is a Vice President of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Virginia L Collins
Notary Public

[Notarial Seal]

My Commission expires May 4, 1987

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

On this day of September 1986, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

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

On this day of September 1986, before me personally appeared ,
to me personally known, who, being by me duly sworn, says that he is a Vice President of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

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

On this 5th day of September 1986, before me personally appeared LOUIS YOUNG ,
to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Gerard F. Facendola
Notary Public

[Notarial Seal]

My Commission expires

GERARD F. FACENDOLA
NOTARY PUBLIC, State of New York
No. 31-4860798
Certified in New York County
Commission Expires July 14, 1988

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

On this day of September 1986, before me personally appeared ,
to me personally known, who, being by me duly sworn, says that he is a Vice President of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

_____
Notary Public

[Notarial Seal]

My Commission expires

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

On this day of September 1986, before me personally appeared ,
to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

[Notarial Seal]

My Commission expires

SCHEDULE A

Specifications of the Equipment

Type	Quantity	Lessee's Identification Numbers (Both Inclusive)*
Part A: SD-60 3,800 h.p. diesel electric locomotives	30	CNW 8001 through CNW 8055
Part B: Additional Equipment to be supplied by Lessee	30	

*The road numbers listed are for all Units to be delivered under this Lease and certain other leases. After all the Units have been delivered and accepted hereunder, an appropriate amendment to this Schedule A will be filed with the Interstate Commerce Commission to reflect the road numbers of the Units actually delivered and accepted hereunder.

SCHEDULE B

Rental Payment Schedule

Date	Percentage of Purchase Price*
7/2/87	3.0268088
1/2/88	5.2016911
7/2/88	2.9158899
1/2/89	5.3126101
7/2/89	2.7936571
1/2/90	5.4348429
7/2/90	2.6589567
1/2/91	5.5695433
7/2/91	2.5105167
1/2/92	5.7179833
7/2/92	2.3469359
1/2/93	5.8815640
7/2/93	3.3968901
1/2/94	4.8316099
7/2/94	7.2291087
1/2/95	2.8279468
7/2/95	7.3544714
1/2/96	2.7025841
7/2/96	7.8106433
1/2/97	2.2464123
7/2/97	7.9660133
1/2/98	2.0910422
7/2/98	8.1315828
1/2/99	1.9254727
7/2/99	8.3064891
1/2/00	1.7505665
7/2/00	9.5414772
1/2/01	0.5155783
7/2/01	10.0265361
1/2/02	0.0305194

*As defined in Article 4 of the CSA.

SCHEDULE C

Casualty and Termination Value* Percentage Schedule

Date	Percentage of Purchase Price**
7/2/87	110.329%
1/2/88	106.793
7/2/88	108.165
1/2/89	103.873
7/2/89	104.704
1/2/90	99.611
7/2/90	99.867
1/2/91	93.932
7/2/91	93.824
1/2/92	87.525
7/2/92	87.442
1/2/93	83.844
7/2/93	82.591
1/2/94	79.889
7/2/94	74.705
1/2/95	73.734
7/2/95	68.259
1/2/96	67.238
7/2/96	61.132
1/2/97	60.367
7/2/97	53.921
1/2/98	53.115
7/2/98	46.309
1/2/99	45.460
7/2/99	38.273
1/2/00	37.380
7/2/00	28.768
1/2/01	28.895
7/2/01	21.263
1/2/02	20.000

*These Termination Value percentages assume that the CSA Indebtedness may be prepaid at par without premium. If any premium is to be paid, the amount thereof must be added to the Termination Values derived from the listed percentages.

**As defined in Article 4 of the CSA.

SCHEDULE D

Certificate of Inspection and Acceptance

To: United States Trust Company of New York,
acting as Trustee (the "Lessor") under Trust Agreement
45 Wall Street
New York, New York 10005

I, the duly authorized representative for the Lessor and Chicago and North Western Transportation Company (the "Lessee") under the Conditional Sale Agreement and the Lease of Railroad Equipment, both dated as of August 1, 1986, do hereby certify that the following Units of Equipment have been inspected and I have accepted delivery of such Units thereunder:

TRANSACTION: B
TYPE OF EQUIPMENT:
DATE ACCEPTED:
NUMBER OF UNITS:
LESSEE'S ROAD NUMBERS:

I do further certify that the foregoing Units are in good order and condition, and appear to conform to the specifications, requirements and standards applicable thereto as provided in Article 2 of the aforesaid Conditional Sale Agreement.

I do further certify that each of the foregoing Units has been marked by means of a stencil printed in contrasting colors upon each side of each such Unit in letters not less than one inch in height as follows:

"Ownership Subject to a Security Agreement Filed with the Interstate Commerce Commission"

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder named below for any warranties it has made with respect to the Equipment.

_____
Authorized Representative of
Lessor and Lessee

BUILDER:

General Motors Corporation
(Electro-Motive Division)