

# CRAVATH, SWAINE & MOORE

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12698-A

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DEC 31 1980-11 25 AM

INTERSTATE COMMERCE COMMISSION

REGISTRATION NO. 12698

DEC 31 1980-11 25 AM

INTERSTATE COMMERCE COMMISSION

December 29, 1980

4, PLACE DE LA CONCORDE  
75008 PARIS, FRANCE  
TELEPHONE: 265-81-54  
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33 THROGMORTON STREET  
LONDON, EC2N 2BR, ENGLAND  
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The Dow Chemical Company  
Lease Financing Dated as of December 15, 1980  
12.02% Conditional Sale Indebtedness Due January 1, 1999

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of The Dow Chemical Company for filing and recordation counterparts of the following agreements:

(1) Conditional Sale Agreement dated as of December 15, 1980, between First Security State Bank, as Vendee, and North American Car Corporation, as Builder; and

(2) Agreement and Assignment dated as of December 15, 1980, between Mercantile-Safe Deposit and Trust Company, as Agent, and North American Car Corporation, as Builder.

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

(1) Agent-Assignee:

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

(2) Trustee-Vendee:

First Security State Bank,  
79 South Main Street,  
Salt Lake City, Utah 84111.

0-3664046

No. DEC 31 1980

Date 50 '06

ICG Washington, D. C.

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COMM. FILES  
BRANCH

*Handwritten notes:*  
New Number  
- A  
Mergenovich - Robert M. Mergenovich

(3) Builder-Vendor:

North American Car Corporation,  
222 South Riverside Plaza,  
Chicago, Illinois 60606.

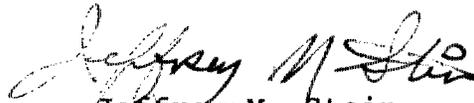
Please file and record the documents referred to in this letter and index them under the names of the Agent-Assignee, the Trustee-Vendee and the Builder-Vendor.

The equipment covered by the aforementioned documents consists of 28 3,000 cu. ft. pressure differential cement cars bearing the Lessee's identification numbers DOWX 5569-5596, both inclusive, and also bears the legend "Ownership Subject to a Security Agreement filed with the Interstate Commerce Commission".

There is also enclosed a check for \$50 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (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,



Jeffrey M. Stein  
as Agent for The Dow  
Chemical Company

Agatha L. Mergenovich, Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.

10A

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Jeffrey M. Stein  
Cravath, Swaine, & Moore  
One Chase Manhattan Plaza  
New York, N. Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/31/80 at 11:25AM, and assigned re-  
recording number(s). 12698, & 12698-A

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

REGISTRATION NO. 12698 Filed 1976

DEC 31 1980-11 25 AM

INTER-STATE COMMERCE COMMISSION

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[CS&M Ref: 3626-011A]

CONDITIONAL SALE AGREEMENT

Dated as of December 15, 1980

between

FIRST SECURITY STATE BANK, as Trustee  
under a Trust Agreement,  
Vendee,

and

NORTH AMERICAN CAR CORPORATION

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CONDITIONAL SALE AGREEMENT dated as of December 15, 1980, between NORTH AMERICAN CAR CORPORATION, a Delaware corporation (the "Vendor" or "Builder" as more particularly set forth in Article 1 hereof), and FIRST SECURITY STATE BANK, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called "Vendee") acting under a Trust Agreement dated as of June 15, 1980, as amended by the Trust Agreement Amendment dated as of the date hereof (the "Trust Agreement") with FIRST SECURITY BANK OF UTAH, N.A. ("Owner").

The Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, the railroad equipment described in Annex B hereto other than equipment excluded pursuant to Article 3 hereof (the "Equipment").

The Vendee is entering into an Amendment of a Lease of Railroad Equipment dated as of the date hereof (the "Lease Amendment") with THE DOW CHEMICAL COMPANY (the "Lessee"), substantially in the form of Annex C hereto (the Lease between such parties dated as of June 15, 1980, as so amended, being herein called the "Lease").

Mercantile-Safe Deposit and Trust Company (the "Assignee" or "Vendor") is acting as agent for an institutional investor (the "Investor", and, together with its successors and assigns, the "Investors") pursuant to the Participation Agreement dated as of June 15, 1980, as supplemented and amended by the Supplemental Participation Agreement dated as of the date hereof (the "Supplemental Participation Agreement") among the Assignee, the Vendee, the Lessee and the Investor (the Participation Agreement as so supplemented and amended being herein called the "Participation Agreement").

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

ARTICLE 1. Assignment; Definitions. The parties

hereto contemplate that the Vendee will furnish that portion of the Purchase Price (as hereinafter defined) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price as is payable hereunder shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof (the "CSA Assignment") between the Builder and the Assignee.

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

In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title, and interest of the Vendee in and to the Lease, pursuant to an Amendment to Assignment of Lease and Agreement in the form of Annex D hereto (the "Lease Assignment Amendment"), and the Lessee shall consent thereto pursuant to the Consent and Agreement in the form attached to Annex D (the "Consent").

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto (such Equipment with respect to the Builder being hereinafter sometimes called "its Equipment"), and the Builder will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), such Builder's Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Lessee

(which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as then being applicable to each such unit of Equipment, and each such unit will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of its Equipment to the Vendee at the place or places specified in Annex B hereto (or at such other place or places designated from time to time by Lessee on behalf of the Vendee), freight and storage charges, if any, prepaid and included in the Purchase Price, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that any unit of Equipment which is delivered prior to the filing of this Agreement and the Lease Amendment pursuant to 49 U.S.C. § 11303 shall be excluded from this Agreement, and the Vendee shall be relieved of its obligation to purchase and pay for such Equipment; and provided further, that the Builder shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (c) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or event which, with the lapse of time and/or demand, would constitute such an event of default. The Builder agrees not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Vendee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, and (b) until such Builder receives notice from the Assignee and the Vendee, respectively, that the conditions contained in Paragraphs 6 and 7, respectively, of the Supplemental Participation Agreement have been met or waived.

Any Equipment delivered prior to the filing of this Agreement and the Lease Amendment pursuant to 49 U.S.C. § 11303 and any Equipment not delivered at the time of receipt by the Builder of the notice specified in clause (a) of the second sentence of the first paragraph of this Article 3 and any Equipment not delivered and accepted hereunder on or prior to December 31, 1980, shall be

excluded from this Agreement, and the Vendee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the Builder and the Vendee shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. Pursuant to the Supplemental Participation Agreement the Lessee has agreed to purchase such excluded Equipment and any Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof from the Builder as provided in Paragraph 1 of the Participation Agreement.

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

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee), and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of its Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance"), stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 9 hereof.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Builder shall not have any further responsibility for, nor bear any

risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Vendee of any unit of Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Vendee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Vendee any liability, obligation or responsibility with respect thereto; any right or interest in any such unit created in or transferred to or purported to be created in or transferred to, the Vendee shall be held by the Vendee solely as trustee for the benefit of the Lessee.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder thereof, the Vendee, and the Lessee. The term "Purchase Price" as used herein shall mean such base price or prices as so increased or decreased (as set forth in the invoice or invoices of the Builder which shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Vendee). If on the Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement has theretofore been and is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as the Vendee may at its option agree to prior to delivery of any unit or units of Equipment that, but for such agreement, would be excluded from this Agreement), the Builder (and any assignee of such Builder) and the Vendee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as aforesaid), and the Vendee shall take such other steps, including the execution of instruments of transfer, as it may be reasonably requested

by the Lessee for the purpose of acknowledging and perfecting the interest of the Lessee in any unit of Equipment so excluded from this Agreement, and the Vendee shall have no further obligation or liability in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" shall mean such date (not later than December 31, 1980), occurring not more than two business days following presentation by the Builder to the Vendee of the Invoices and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Vendee and the Assignee. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, San Francisco, California, or Chicago, Illinois, are authorized or obligated to remain closed. On the Closing Date, the Builder will be paid the Purchase Price for its Equipment then being settled for in the manner and subject to the conditions set forth in Section 4 of the New CSA Assignment.

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

(a) not later than 1:00 p.m., Baltimore time, on the Closing Date with respect to each Group (i) an amount equal to 25.25% of the aggregate Purchase Price of Equipment included in such Group represented by the Invoice or Invoices of the Builder therefor (the "Invoiced Purchase Price") plus (ii) the amount, if any, by which (x) the remainder of the Purchase Price of all units of the Equipment covered by this Agreement for which settlement has theretofore and is then being made, as set forth in the Invoice or Invoices therefor exceeds (y) the Maximum Conditional Sale Indebtedness specified in Item 6 of Annex A and any amount or amounts previously paid or payable with respect to the Purchase Prices pursuant to this Clause (ii); and

(b) in 36 semiannual installments, as hereinafter provided, an amount equal to the balance of the Purchase Price specified in subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (the "CSA Indebtedness") shall be payable in 36 consecutive semiannual installments commencing July 1, 1981, to and including January 1, 1999 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a "Payment Date". The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 12.02% per annum. Such interest shall be payable, to the extent accrued, on January 1 and July 1 of each year commencing January 1, 1981; provided, however, the Vendee shall have the option of prepaying any such interest payment on the business day prior to the date so due in the full amount that would otherwise be due on the scheduled due date. The installments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto, and such installments of principal will completely amortize the CSA Indebtedness. The Vendee will furnish to the Vendor and the Lessee promptly after the Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of 12 30-day months, except that the interest due on January 1, 1981, and interest due pursuant to the next succeeding paragraph shall be determined on an actual elapsed day, 365-day year basis.

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 13.02% per annum.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided

in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

The obligation of the Vendee to pay to the Vendor the amount required to be paid pursuant to subparagraph (a) of the third paragraph of this Article 4 with respect to any Group shall be subject to the receipt by the Vendee of copies of the documents required to be furnished by the Builder pursuant to Section 4 of the CSA Assignment in respect of such Group.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 15 and 16 hereof) but not limiting the effect of Article 21 hereof, it is understood and agreed by the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement or the performance of its obligations hereunder and excluding only the obligations set forth in the proviso in the third paragraph of Article 12 hereof, the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article and the interest payable on the CSA Indebtedness due January 1, 1981, pursuant to the fourth paragraph of this Article 4, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment". As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 15 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences or Terminations (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the lease (other than indemnity payments paid or payable under § 9 of the Lease and taxes and indemnities paid or payable to the Vendee under § 6 of the Lease) and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly

received by the Vendee or any assignee of the Vendee and as shall equal the portion of the CSA Indebtedness (including prepayments thereof required in respect of Casualty Occurrences or Terminations) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that (1) "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of Casualty Occurrences or Voluntary Terminations) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease, (2) "income and proceeds from the Equipment" shall also mean and include the amounts to be paid by the Vendee pursuant to Paragraph 17 of the Participation Agreement and (3) "income and proceeds from the Equipment" shall in no event include the amounts paid pursuant to § 3 of the Lease on any rental payment date if, but only if, the Vendee has made the payment of CSA Indebtedness and interest due on the immediately preceding December 30 or June 30, as the case may be, pursuant to this Article 4. Notwithstanding anything to the contrary contained in Article 15 or 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder.

ARTICLE 5. Security Interest in the Equipment.

The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding

any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment releasing its security interest therein to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 20 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, Federal or foreign taxes (other than gross receipts taxes [except gross receipt taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by net income, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties

hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "impositions"), all of which such impositions the Vendee assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor solely by reason of its ownership thereof (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security interest of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

ARTICLE 7. Maintenance, Termination and Casualty Occurrences. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order, repair and condition.

In the event that the Lease is terminated voluntarily pursuant to § 7 of the Lease as to any Unit (hereinafter called a "Termination") or any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Vendee or the Lessee, irreparably damaged, from any cause whatsoever, or any unit shall be

taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government (any such occurrence being herein called a "Casualty Occurrence"), the Vendee shall, promptly after it shall have received notice from the Lessee or has otherwise been informed of a Termination or that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the Casualty Date (as defined in the Lease) in the case of a Casualty Occurrence or on the Termination Date (as defined in the Lease) in the case of a Termination (each such date hereinafter called a "Settlement Date"), the Vendee shall, subject to the limitations contained in the last paragraph of Article 4 hereof, pay to the Vendor (i) in the case of a Casualty Occurrence, a sum equal to the Casualty Value (as hereinafter defined in this Article 7) of such unit suffering a Casualty Occurrence as of such Settlement Date, together with an amount equal to accrued interest thereon (as hereinafter provided) and (ii) in the case of a Termination, a sum equal to the Termination Value (as hereinafter defined in this Article 7) of such unit subject to such Termination as of such Settlement Date. The Vendee shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit or the Termination Value of such unit, as the case may be. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) on the date of such payment to prepay without penalty or premium (except in the case of a Termination if such unit is surplus) ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness, together with all interest accrued on the portion of the CSA Indebtedness being prepaid. The Vendee shall promptly cause to be furnished to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request, calculated as provided in Article 4 hereof. In the event of the requisition for use by the United States Government of any unit of the Equipment, all of the Vendee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

The Casualty Value of each unit of the Equipment shall be deemed to be that portion of the original Purchase Price thereof referred to in subparagraph (b) of the third paragraph of Article 4 hereof remaining unpaid on the date (after the payment of the interest and principal

due on such date) as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit). For the purpose of this paragraph and the next succeeding paragraph hereof, each payment of the Purchase Price made pursuant to Article 4 hereof shall be deemed to be a payment with respect to each unit of Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of all the Equipment.

The Termination Value of any unit shall be (a) if the unit is obsolete an amount equal to the Casualty Value or (b) if the unit is surplus an amount equal to the sum of (i) the Casualty Value thereof plus (ii) a prepayment penalty premium equal to the product of the multiplication of such Casualty Value by the applicable percentage set forth below:

<u>Settlement Date</u>	<u>Percentage</u>
January 1, 1991	5.0%
July 1, 1991	5.0
January 1, 1992	4.4
July 1, 1992	4.4
January 1, 1993	3.9
July 1, 1993	3.9
January 1, 1994	3.3
July 1, 1994	3.3
January 1, 1995	2.8
July 1, 1995	2.8
January 1, 1996	2.2
July 1, 1996	2.2
January 1, 1997	1.7
July 1, 1997	1.7
January 1, 1998	1.1
July 1, 1998	1.1
January 1, 1999	.6
July 1, 1999	.6
January 1, 2000	.0
July 1, 2000	.0
January 1, 2001	.0

Upon payment by the Vendee to the Vendor (i) of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence or (ii) of the Termination Value of any unit subject to a Termination, absolute right

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

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence, the Vendor shall, subject to the Vendor having received payment of the Casualty Value hereunder, pay such insurance proceeds or condemnation payments to the Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Reports and Inspections. On or before April 30 in each year, commencing with the year 1981, the Vendee shall cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement, subject to the Lessee's applicable secrecy, safety and security regulations for the property involved.

ARTICLE 9. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road number and marked as provided in § 5 of the Lease. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, obliterated, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement

previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

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

ARTICLE 10. Compliance with Laws and Rules.

During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or modification of or to any part of any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The parties hereto acknowledge that the Vendee

simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

ARTICLE 12. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Vendee's interests in the Lease and the payments to be made thereunder equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

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

The foregoing provisions of this Article 12 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 21 hereof; provided, however, that the Vendee will pay or discharge any and all taxes, claims, liens, charges or security interests claimed by any party from, through or under the Vendee or its successors or assigns, not arising out of the transactions contemplated hereby (but including taxes arising out of the receipt of the rentals and other payments under the Lease and any other proceeds from the

Equipment), which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Vendee's interest in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement or in and to the Lease and the payments to be made thereunder.

ARTICLE 13. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto or a security interest therein remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except however, in the case of any Builder, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by such Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder (except as provided in Article 21 hereof) in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The Builder represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of its Equipment under this Agreement, the Vendee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

The Builder represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 14. Assignments. The Vendee will not (a) except as provided in Article 11 hereof, transfer the right to possession of any unit of the Equipment or (b) without the prior written consent of the Vendor sell, assign, transfer or otherwise dispose of its rights under this Agreement except as provided in the Trust Agreement. Any such sale, assignment, transfer or disposition which may be made by the Vendee to another party shall be subject to the assumption by such party of all the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of such Builder to construct and deliver its Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 13 hereof, or relieve the Vendee of its obligations to such Builder contained in Articles 2, 3, 4, 6 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is

intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee and the Lessee, together with a counterpart or copy of such assignment, stating the identity and post office address of interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee of the notification of any such assignment, all payments thereafter to be made by the Vendee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the CSA Assignment. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against the Builders.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this

Agreement limiting the liability of the Vendee) and such default shall continue for 15 days after the date such payment is due and payable; or

(b) the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) or the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) any proceeding shall be commenced by or against the Vendee, the Owner or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder, the Owner under the Participation Agreement or the Trust Agreement or of the Lessee under the Lease or the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), 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 such obligations of the Vendee, the Owner or of the Lessee, as the case may be, 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 for the Vendee, the Owner or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(d) the Vendee shall make or permit any unauthorized assignment or transfer of this Agreement or any

interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Vendee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Vendee of such Agreement, interest or right; or

(e) any Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease; provided, however, that an Event of Default under clause (A) of § 10 of the Lease shall not be deemed to be an event of default hereunder if (1) within the 15 business days period provided by subparagraph (a) of this Article 15, the Vendee shall make payment of all amounts in default under said paragraph (a) hereunder, (2) there is no other event of default under this Article 15 and (3) not more than 3 such Events of Default shall have occurred and not more than 2 such Events of Default shall have occurred on consecutive dates;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the proviso in the second paragraph of § 4 of the Lease relating to the Lessee's rights of possession, use and assignment under § 12 of the Lease, cause the Lease immediately upon such notice to terminate (and the Vendee acknowledges the right of the Vendor to terminate the Lease), but without affecting the indemnities which by the provisions of the Lease survive its termination, provided, however, that such termination shall not be in derogation of or impair the rights of the Vendee to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of its rights and remedies under § 10 of the Lease (subject to the Vendor's rights to repossess and sell the Equipment as provided herein), including the rights of the Vendee to sue for and recover damages provided for in § 11(a) of the Lease upon the occurrence of an Event of Default under the Lease, and/or (ii) declare (hereinafter called a "Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from

the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Article 4 hereof, wherever situated. The Vendee shall promptly notify the Vendor of any event of which it has knowledge which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

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

ARTICLE 16. Remedies. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 12 of the Lease, at any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Vendee or any other person and for such purpose may enter upon the premises of the Vendee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and

aids and any available trackage and other facilities or means of the Vendee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to the Association of American Railroads and all railroads to which any unit or units of the Equipment have been interchanged to return the unit or units so interchanged) cause the Equipment to be placed upon such storage tracks of the Lessee or, at the expense of the Vendee, upon any other storage tracks, as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks at the risk of the Vendee without charge for rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to any reasonable place on any lines of railroad or to any connecting carrier for shipment, all as directed by the Vendor.

During any storage period, the Vendee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided further that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee

or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Vendee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than 10 days prior thereto, by telegram or registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 railroads have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within 10 days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee or the Lessee (except to the extent of surplus

money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

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

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in

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

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 18. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish or cause to be furnished to the Vendor certificates or other evidence of

such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at the following addresses

(a) to the Vendee, at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department,

(b) to the Lessee at 2020 Dow Center, Midland, Michigan 48640, Attention of Treasurer-Dow Chemical, U.S.A.,

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

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

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

ARTICLE 21. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer,

as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the second paragraph of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the second paragraph thereof to the extent that certificates or payment schedules are required to be prepared and furnished therein), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

Anything herein to the contrary notwithstanding, each and all of the representations, undertakings and agreements herein made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by the financial institution acting as Vendee hereunder, or for the purpose or with the intention of binding said financial institution personally but are made and intended for the purpose of binding the Trust Estate as defined in the Trust Agreement to the extent provided herein, and this Agreement is executed and delivered by the said financial institution solely in the exercise of the powers expressly conferred upon the said financial institution as trustee under the Trust Agreement; and no personal liability or responsibility is assumed by or shall at any time be asserted or enforceable against said financial institution or the Owner on account of any representation, undertaking or agreement hereunder of said financial institution acting in its capacity as Vendee or the Owner either expressed or implied, except as provided in the parenthetical clause contained in the first sentence of the last paragraph of Article 4 hereof; all such personal liability, if any, being expressly waived and

released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

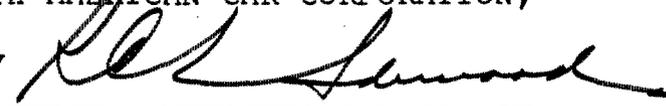
ARTICLE 22. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Utah; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart delivered to the Assignee pursuant to the CSA Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

NORTH AMERICAN CAR CORPORATION,

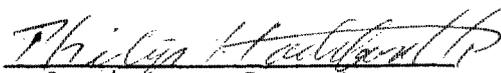
by



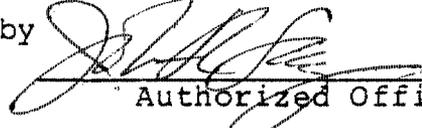
Vice President

[CORPORATE SEAL]

Attest:

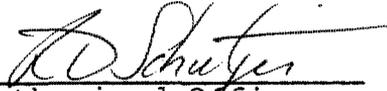
  
Assistant Secretary

FIRST SECURITY STATE BANK,  
not in its individual capacity,  
but solely as Trustee,

by   
Authorized Officer

[CORPORATE SEAL]

Attest:

  
Authorized Officer

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

On this 30th day of December, 1980, before me personally appeared R. C. Underwood, to me personally known, who, being by me duly sworn, says that he is a Vice President of NORTH AMERICAN CAR CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Debra A. Kelly  
Notary Public

My Commission expires My Commission Expires Feb. 28, 1988

STATE OF UTAH, )  
 ) ss.:  
COUNTY OF SALT LAKE, )

On this \_\_\_\_\_ day of December 1980, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the seal of said bank and that said instrument was signed and sealed on behalf of said bank as Trustee 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 bank.

[Notarial Seal]

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_

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

On this            day of December 1980, before me personally appeared  
to me personally known, who, being by me duly sworn, says that he is a Vice President of NORTH AMERICAN CAR CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

\_\_\_\_\_  
Notary Public

My Commission expires

STATE OF UTAH,            )  
 ) ss.:  
COUNTY OF SALT LAKE, )

On this <sup>29</sup> day of December 1980, before me personally appeared <sup>JOHN H. SAGER</sup>, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the seal of said bank and that said instrument was signed and sealed on behalf of said bank as Trustee 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 bank.

[Notarial Seal]

Randy R. Macomber  
Notary Public

My Commission expires 8-8-82

SCHEDULE I

Allocation Schedule of Each \$1,000,000  
of 12.02% CSA Indebtedness Payable  
in Installments

<u>Payment Number</u>	<u>Date</u>	<u>Debt Service</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Remaining Principal Balance</u>
Interim	1 Jan. 81	*	*	*	\$1,000,000.00
1	1 July 81	\$65,587.83	\$60,433.89	\$5,153.94	994,846.06
2	1 Jan. 82	65,587.83	59,790.25	5,797.58	989,048.48
3	1 July 82	65,587.83	59,441.81	6,146.01	982,902.47
4	1 Jan. 83	65,587.83	59,072.44	6,515.39	976,387.08
5	1 July 83	65,587.83	58,680.86	6,906.96	969,480.12
6	1 Jan. 84	65,587.83	58,265.76	7,322.07	962,158.05
7	1 July 84	65,587.83	57,825.70	7,762.13	954,395.92
8	1 Jan. 85	65,587.83	57,359.20	8,228.63	946,167.29
9	1 July 85	65,587.83	56,864.65	8,723.17	937,444.12
10	1 Jan. 86	65,587.83	56,340.39	9,247.43	928,196.69
11	1 July 86	65,587.83	55,784.62	9,803.21	918,393.48
12	1 Jan. 87	65,587.83	55,195.45	10,392.38	908,001.10
13	1 July 87	65,587.83	54,570.87	11,016.96	896,984.14
14	1 Jan. 88	65,587.83	53,908.75	11,679.08	885,305.07
15	1 July 88	65,587.83	53,206.83	12,380.99	872,924.07
16	1 Jan. 89	65,587.83	52,462.74	13,125.09	859,798.98
17	1 July 89	65,587.83	51,673.92	13,913.91	845,885.08
18	1 Jan. 90	65,587.83	50,837.69	14,750.13	831,134.94
19	1 July 90	65,587.83	49,951.21	15,636.62	815,498.33
20	1 Jan. 91	65,587.83	49,011.45	16,576.38	798,921.95
21	1 July 91	80,162.90	48,015.21	32,147.69	766,774.26
22	1 Jan. 92	80,162.90	46,083.13	34,079.77	732,694.50
23	1 July 92	80,162.90	44,034.94	36,127.96	696,566.54
24	1 Jan. 93	80,162.90	41,863.65	38,299.25	658,267.29
25	1 July 93	80,162.90	39,561.86	40,601.03	617,666.26
26	1 Jan. 94	80,162.90	37,121.74	43,041.16	574,625.10
27	1 July 94	80,162.90	34,534.97	45,627.93	528,997.17
28	1 Jan. 95	80,162.90	31,792.73	48,370.17	480,627.00
29	1 July 95	80,162.90	28,885.68	51,277.22	429,349.78

\* Interest only on the CSA Indebtedness shall be payable to the extent accrued on this date.

SCHEDULE I  
(Continued)

<u>Payment Number</u>	<u>Date</u>	<u>Debt Service</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Remaining Principal Balance</u>
30	1 Jan. 96	61,090.35	25,803.92	35,286.63	394,063.15
31	1 July 96	80,162.90	23,683.20	56,479.70	337,583.45
32	1 Jan. 97	80,162.90	20,288.77	59,874.13	277,709.32
33	1 July 97	80,162.90	16,690.33	63,472.57	214,236.75
34	1 Jan. 98	80,162.90	12,875.63	67,287.27	146,949.48
35	1 July 98	80,162.90	8,831.66	71,331.23	75,618.24
36	1 Jan. 99	80,162.90	4,544.66	75,618.24	(-.00)
<b>Totals</b>		<b>\$2,575,290.55</b>	<b>\$1,575,290.55</b>	<b>\$1,000,000.00</b>	<b>(-.00)</b>

Annex A

to

Conditional Sale Agreement

- Item 1: North American Car Corporation, 222 South Riverside Plaza, Chicago, Illinois 60606.
- Item 2: Unless the parties shall otherwise agree, the Equipment shall be settled for in one Group.
- Item 3: NAC's Warranty. NAC warrants that the Equipment will be built in accordance with the requirements, specifications and standards set forth or referred to in Article 2 of this Agreement and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by NAC, Ingalls or Pullman) and workmanship under normal use and service. NAC's obligation under this Item 3 is limited to making good at a location designated by it any part or parts of any unit of such Equipment that shall be returned to such location as NAC may designate in writing with transportation charges prepaid within one year after the delivery of such unit to the Trustee and which examination shall disclose to have been thus defective. This warranty is expressly in lieu of all other warranties express or implied including any implied warranty of merchantability or fitness for a particular purpose except for its other obligations or liabilities under Articles 2, 3, 4, 5, 6, 13 and 19 of this Agreement and Item 4 of this Annex A. NAC neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid. It is further understood and agreed that in no event shall NAC be liable for indirect or consequential damages of any kind.

NAC further agrees with the Trustee that neither the inspection as provided in Article 3

of this Agreement nor any examination nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Trustee of any of its rights under this Item 3.

Item 4: NAC's Patent Indemnity. Except in cases of articles or materials specified by the Lessee and not manufactured by NAC, Ingalls or Pullman and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed by NAC, Ingalls or Pullman, NAC agrees to indemnify, protect and hold harmless the Trustee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Trustee, its assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. NAC agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Trustee and the Lessee every claim, right and cause of action which NAC has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Lessee and purchased or otherwise acquired by NAC for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. NAC further agrees to execute and deliver to the Trustee and the Lessee all and every such further assurance as may be reasonably requested more fully to effectuate the assignment and delivery of every such claim, right and cause of action. NAC will give notice to the Trustee and the Lessee of any claim known to NAC from which liability may be charged against the Lessee hereunder and the Trustee will give notice to NAC of any claim known to it from which liability may be charged against NAC hereunder.

Item 5: The Maximum Purchase Price referred to in Article 4 of the CSA to which this Annex A is attached is \$1,639,884.82.

Item 6: The Maximum CSA Indebtedness referred to in Article 4 of the CSA to which this Annex A is attached is \$1,225,784.

ANNEX B

TO

CONDITIONAL SALE AGREEMENT

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Identification Numbers (Both Inclusive)</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
3000 cu. ft. pressure differential cement cars	North American Car Corporation		Chicago Ridge, Illinois	28	DOWX 5569-5596	\$57,000	\$1,596,000	December 1980 f.o.b. Builder's Plant

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[CS&M Ref: 3626-011A]

AMENDMENT

Dated as of December 15, 1980

to

LEASE OF RAILROAD EQUIPMENT

Dated as of June 15, 1980

Between

THE DOW CHEMICAL COMPANY,

Lessee,

And

FIRST SECURITY STATE BANK,  
not in its individual capacity,  
but solely as Trustee,

Lessor.

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AMENDMENT dated as of December 15, 1980, to LEASE OF RAILROAD EQUIPMENT dated as of June 15, 1980, each between THE DOW CHEMICAL COMPANY, a Delaware corporation (the "Lessee"), and FIRST SECURITY STATE BANK, not individually but solely as Trustee (the "Lessor") under a Trust Agreement dated as of June 15, 1980, as amended as of the date hereof (the "Trust Agreement") with FIRST SECURITY BANK OF UTAH, N.A. (the "Owner").

The Lessor entered into a Conditional Sale Agreement dated as of June 15, 1980 (the "Original CSA"), with GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation, GENERAL AMERICAN TRANSPORTATION CORPORATION, a New York corporation, and ACF INDUSTRIES, INCORPORATED, a New Jersey corporation (the "Original Builders"), by which the Original Builders agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment (the "Category A Equipment") described in Schedule A to the Lease of Railroad Equipment dated as of June 15, 1980 (the "Original Lease").

The Original Builders assigned their respective interests in the Original CSA to Mercantile-Safe Deposit and Trust Company, a Maryland banking corporation, acting as agent (together with its successors and assigns, and the Investors for whom it is acting, called the "Vendor") under a Participation Agreement dated as of June 15, 1980 (the "Original Participation Agreement"), with the Lessee, the Lessor and the party named in Schedule A thereto (the "Investor" and together with its successors and assigns the "Investors").

The Lessee leased such number of units of the Category A Equipment as were delivered and accepted under the Original CSA (the "Category A Units") at the rentals and for the terms and upon the conditions provided in the Original Lease. The Original Lease was filed with the Interstate Commerce Commission pursuant to 49 U.S.C. 11303 on July 14, 1980, at 3:30 p.m. and was assigned recordation number 11996-B.

The Lessor assigned the Original Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement (the "Original Lease Assignment") and the Lessee consented to the Lease Assignment pursuant to a Lessee's Consent and Agreement (the "Original Consent").

The Lessee agreed to indemnify the Lessor against certain losses, liabilities and expenses pursuant to an indemnity agreement (the "Original Indemnity Agreement") substantially in the form of Exhibit E to the Original Participation Agreement.

The Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "New CSA") with NORTH AMERICAN CAR CORPORATION, a Delaware corporation, (the "New Builder"; the Original Builder and the New Builder called collectively the "Builders" and individually a "Builder"), by which the Builder has agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (the "Category B Equipment"; the Category A Equipment and the Category B Equipment called collectively the "Equipment").

The Builder is assigning its interests in the New CSA to Mercantile-Safe Deposit and Trust Company, a Maryland banking corporation, acting as agent (together with its successors and assigns, and the Investors for whom it is acting, called the "Vendor") under a Supplemental Participation Agreement dated as of the date hereof (the "Supplemental Participation Agreement"; the Original Participation Agreement and the Supplemental Participation Agreement called collectively the "Participation Agreement") with the Lessee, the Lessor and the party named in Schedule A thereto (the "Investor" and together with its successors and assigns the "Investors").

The Lessee desires to lease such number of units of the Equipment as are delivered and accepted under the New CSA (the "Category B Units"; and the Category A Units and the Category B Units called collectively the "Units") at the rentals and for the terms and upon the conditions hereinafter provided.

The Lessor will assign the Lease as hereby amended for security to the Vendor pursuant to an Assignment of Lease and Agreement Amendment (the "Lease Assignment Amendment") and the Lessee will consent to the Lease Assignment pursuant to a Lessee's Consent and Agreement (the "Amended Consent"; the Original Consent and the Amended Consent called collectively the "Consent").

The Lessee will indemnify the Lessor against certain losses, liabilities and expenses pursuant to an indem-

nity agreement (the "Indemnity Agreement Amendment"; the Original Indemnity Agreement as amended by the Indemnity Agreement Amendment being called collectively the "Indemnity Agreement") substantially in the form of Exhibit E to the Supplemental Participation Agreement.

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 Category B Units to the Lessee under and pursuant to the Lease as hereinbelow amended, the parties hereto hereby agreeing that the Original Lease be, and it hereby is, amended as follows:

1. The words "(the 'Units')" in the third line of the third introductory paragraph of the Original Lease are hereby deleted and the words "(such units with the Category Letter A (as set forth in Schedule A hereto) hereafter called the 'Category A Units' and such units with the Category Letter B (as set forth in Schedule A hereto) hereafter called the 'Group B Units'; the Group A Units and the Category B Units called, collectively, the 'Units')" substituted therefor.

2. The third sentence of Section 3 of the Original Lease is deleted and the following sentence substituted therefor:

"As used herein the term 'Semi-Annual Lease Factor' means, (a) with respect to each of the first 20 semiannual rental payments for the Category A Units, 4.9549%, (b) with respect to each of the last 20 semiannual rental payments for the Category A Units, 6.0560%, (c) with respect to each of the first 20 semiannual rental payments for the Category B Units, 4.9027%, and (d) with respect to each last 20 semiannual rental payments for the Category B Units, 5.9922%, of the Purchase Price of each Unit then subject to this Lease."

3. The fifth sentence of Section 3 of the Original Lease is hereby amended so that percentage "11-5/8%" is changed to "12.02%".

4. The fifth paragraph of Section 7(d) of the Original Lease is hereby amended so that the percentage "12-5/8%" is changed to "13.02%".

5. The first sentence of the second paragraph of Section 14 of the Original Lease is hereby amended so that the percentage "11-5/8%" is changed to "12.02%".

6. Section 16 of the Original Lease is hereby amended so that the percentage "12-5/8%" is changed to "13.02%".

7. Schedule A to the Original Lease is hereby deleted and Schedule A hereto substituted therefor.

Except as hereinabove specifically amended, the terms and provisions of the Original Lease shall continue in full force and effect.

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

THE DOW CHEMICAL COMPANY,

by

[Corporate Seal]

\_\_\_\_\_  
Vice President

Attest:

\_\_\_\_\_  
Assistant Secretary

FIRST SECURITY STATE BANK, not  
in its individual capacity,  
but solely as Trustee,

by

[Seal]

\_\_\_\_\_  
Authorized Officer

Attest:

\_\_\_\_\_  
Authorized Officer

STATE OF MICHIGAN, )  
 ) ss.:  
COUNTY OF MIDLAND, )

On this            day of December 1980 before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a Vice President of THE DOW CHEMICAL COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

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Notary Public

[Notarial Seal]

My Commission expires

STATE OF UTAH,            )  
 ) ss.:  
COUNTY OF SALT LAKE, )

On this            day of December 1980 before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is an authorized officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the seal of said bank and that said instrument was signed and sealed on behalf of said bank and that said instrument was signed and sealed on behalf of said bank 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 bank.

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Notary Public

[Notarial Seal]

My Commission expires

SCHEDULE A TO LEASE AMENDMENT  
Specifications of the Equipment

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Category Letter</u>	<u>Lessee's Identification</u>		<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
						<u>Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>			
<u>General American Transportation Corp.</u>										
111A-100W6 20,000 gal. capacity tank cars	T	GATX	Sharon, Pa.	6	A	3258-3263		\$129,000	\$ 774,000	July-Oct. 1980 f.o.b. Builder's Plant
105A-400W 33,500 gal. capacity tank cars	T	GATX	Sharon, Pa.	58	A	8169-8226		81,034	4,700,000	July-Oct. 1980 f.o.b. Builder's Plant
105A-600W 21,000 gal. capacity tank cars	T	GATX	Sharon, Pa.	22	A	4535-4556		95,818	2,108,000	July-Oct. 1980 f.o.b. Builder's Plant
105A-300W 11,000 gal. capacity tank cars	T	GATX	Sharon, Pa.	31	A	4504-4534		52,935	1,641,000	July-Oct. 1980 f.o.b. Builder's Plant
<u>General Motors Corporation</u> <u>(Electro-Motive Division)</u>										
1,000 h.p. diesel electric locomotives	SW 1001	8070	McCook, Illinois	5	A	1001-1003 SW 1-2		3 @ 500,000 2 @ 450,000	2,400,000	Dec. 1980 f.o.b. McCook, Ill.



AMENDMENT

Dated as of December 15, 1980

to

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of June 15, 1980

among

FIRST SECURITY STATE BANK, not in its  
individual capacity but solely as  
Trustee under a Trust Agreement dated  
as of the date hereof with the First  
Security Bank of Utah, N.A.,

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
as Agent.

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AMENDMENT dated as of December 15, 1980, to ASSIGNMENT OF LEASE AND AGREEMENT dated as of June 15, 1980, each by and between FIRST SECURITY STATE BANK, not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the "Lessor" or the "Vendee") acting under a Trust Agreement dated as of June 15, 1980, as amended as of the date hereof ("Trust Agreement"), with FIRST SECURITY BANK OF UTAH, N.A. ("Owner"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (together with its successors and assigns the "Vendor") under a Participation Agreement dated as of June 15, 1980, as amended as of the date hereof.

The Vendee entered into a Conditional Sale Agreement dated as of June 15, 1980 (the "Original CSA") with General Motors Corporation (Electro-Motive Division), General American Transportation Corporation and ACF Industries, Incorporated (the "Original Builders"), providing for the sale to the Vendee of such units of railroad equipment (the "Category A Units") described in the Annex thereto as were delivered to and accepted by the Vendee thereunder.

The Lessor and The Dow Chemical Company ("the Lessee") entered into a Lease of Railroad Equipment dated as of June 15, 1980 (the "Original Lease"), providing for the leasing of the Category A Units to the Lessee by the Lessor.

In order to provide security for the obligations of the Lessor under the Original CSA and as an inducement to the Vendor to invest in the Original CSA Indebtedness (as defined in Article 4 of the Original CSA), the Lessor and the Lessee entered into an Assignment of Lease and Agreement, dated as of June 15, 1980 (the "Original Lease Assignment") pursuant to which the Lessor assigned to the Vendor for security purposes the Lessor's rights in, to and under the Original Lease. The Original Lease Assignment was filed with the Interstate Commerce Commission pursuant to 49 U.S.C. 11303 on July 14, 1980, at 3:30 p.m. and was assigned recordation number 11996-C.

The Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (the "New CSA"; the

Original CSA and the New CSA called collectively the "CSA") with North American Car Corporation (the "New Builder"; the Original Builders and the New builder called collectively the "Builders" and individually the "Builder"), providing for the sale to the Vendee of such units of railroad equipment (the "Category B Units"; the Category A Units and the Category B Units called collectively the "Units") described in the Annex thereto as are delivered to and accepted by the Vendee thereunder.

The Lessor and The Dow Chemical Company ("the Lessee") entered into a Lease of Railroad Equipment Amendment dated as of the date hereof (the "Lease Amendment"; the Original Lease as so amended being called the "Lease"), providing for the leasing of the Category B Units to the Lessee by the Lessor.

In order to provide security for the obligations of the Lessor under the CSA and as an inducement to the Vendor to invest in the CSA Indebtedness (as defined in Article 4 of the CSA), the Lessor agrees to assign to the Vendor for security purposes the Lessor's rights in, to and under the Lease Amendment, as amended.

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants herein-after mentioned to be kept and performed, the parties hereto agree that all the terms and conditions of the Original Lease Assignment shall continue in full force and effect with respect to the Lease as amended by the Lease Amendment.

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

[Seal]

FIRST SECURITY STATE BANK, not  
in its individual capacity,  
but solely as Trustee,

Attest:

by

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Authorized Officer

MERCANTILE-SAFE DEPOSIT & TRUST  
COMPANY,

by

Assistant Vice President

[Corporate Seal]

Attest:

Corporate Trust Officer

STATE OF UTAH, )  
 ) ss.:  
COUNTY OF SALT LAKE,)

On this            day of December 1980, before me personally appeared to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the seal of said bank and that said instrument was signed and sealed on behalf of said bank 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 bank.

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Notary Public

[Notarial Seal]

My Commission expires

STATE OF MARYLAND, )  
 ) ss.:  
CITY OF BALTIMORE,)

On this            day of December 1980, before me personally appeared to me personally known, who being by me duly sworn, says that he is an Assistant Vice President, of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

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Notary Public

[Notarial Seal]

My Commission expires

CONSENT AND AGREEMENT

The undersigned, THE DOW CHEMICAL COMPANY, a Delaware corporation (the "Lessee"), the Lessee named in the Lease Amendment (the "Lease Amendment") referred to in the foregoing Assignment of Lease and Agreement Amendment (the "Lease Assignment Agreement"), hereby (a) acknowledges receipt of a copy of the Lease Assignment Amendment, and (b) consents to its terms and conditions and agrees that the undertaking set forth in its Consent dated as of June 15, 1980, with respect to the Original Lease shall continue in full force and effect with respect to the Lease as amended by the Lease Amendment.

THE DOW CHEMICAL COMPANY,

by

\_\_\_\_\_  
Vice President

[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Secretary