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INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 1696-039]

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1980

Between

PEAVEY COMPANY,

Lessee,

and

CHEMICAL BANK,

Lessor.

[Covering 300 4,750-cubic foot Covered Hopper Cars]

LEASE OF RAILROAD EQUIPMENT

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* This Table of Contents has been provided for convenience only and does not affect any interpretation of this document.

LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1980, between PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), and CHEMICAL BANK, a New York banking corporation (the "Lessor").

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with each of PULLMAN INCORPORATED (Pullman Standard Division) ("Pullman") and THRALL CAR MANUFACTURING COMPANY ("Thrall") and NORTH AMERICAN CAR CORPORATION ("NAC") wherein Pullman and Thrall have severally agreed to manufacture, sell and deliver to NAC, and NAC has agreed to sell conditionally and deliver to the Lessor, the units of railroad equipment described in Appendix A hereto (the "Equipment");

WHEREAS NAC is assigning certain of its interests in the CSA to LA SALLE NATIONAL BANK, acting as agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") between the Lessee, the Vendor, the Lessor and the parties named in Appendix I thereto;

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

WHEREAS the Lessor will assign this Lease as security to the Vendor pursuant to an Assignment of Lease and Agreement dated as of the date hereof (the "Lease Assignment");

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifi-

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

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Lessor under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at

which such Unit is so delivered to the Lessor. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor under the CSA and on behalf of itself hereunder and execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. RENTALS

3.1. Amount and Date of Payment. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on October 31, 1980, and 180 consecutive monthly payments payable, in arrears, on the last day of each month, commencing November 30, 1980, to and including October 31, 1995. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the product of the Vendee Purchase Price (as defined in Paragraph 4.1 of the CSA) for each such Unit subject to this Lease multiplied by 0.02896175% for each day elapsed from and including the Closing Date (as defined in Paragraph 4.2 of the CSA) for such Unit to, but not including, October 31, 1980, and (b) the 180 monthly rental payments shall each be in an amount equal to ~~0.9202%~~ ⁹²⁰²³⁰¹ of the Vendee Purchase Price of each such Unit. In addition to the foregoing, the Lessee agrees to pay to the Lessor as additional rental an amount equal to any deficiency in interest payable by the Lessor pursuant to the second paragraph of Paragraph 2 of the Participation Agreement, payable on the date such deficiency is due thereunder.

Anything in the foregoing provisions of this § 3.1 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3.1 on each rental payment date shall in no event be less than the principal and/or interest payment due on each such date pursuant to Article 4 of the CSA.

3.2. Payments on Nonbusiness Days. If any of the rental payment dates referred to in § 3.1 is not a business day the rental payment otherwise payable on such date shall

be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, or New York, New York, are authorized or obligated to remain closed.

3.3. Instructions To Pay Assignee. Upon execution and delivery of any lease assignment in writing and until the Lessee shall have been otherwise advised in writing, the Lessee shall pay all amounts so assigned in accordance with the instructions of any assignee.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit under the CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to the CSA. Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent (as defined in the Participation Agreement) and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this

Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 hereof.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in the case of any Unit not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the CSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed by the Lessee in all public offices where this Lease and the CSA shall have been filed and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed, such filing will protect the Vendor's and the Lessor's interests in such Units and no filing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

5.2. Insignia of Lessee. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates, but the Lessee will not allow the name of any other person, association or

corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. GENERAL TAX INDEMNIFICATION

Whether or not the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, hold harmless and indemnify on a net after-tax basis the Lessor and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, additions to tax, assessments, fees, withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties, fines and interest (all such taxes, additions to tax, assessments, fees, withholdings, governmental charges, penalties, fines and interest being hereinafter called "Taxes"), howsoever imposed, whether levied, imposed on, or otherwise incurred by or asserted by any Federal, state or local government or governmental subdivision in the United States or any foreign country or subdivision thereof, against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease, the CSA, the CSA Assignment, the Lease Assignment or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured solely by the net income or excess profits of the Lessor or the Vendor, other than Taxes arising out of or imposed with respect to the receipt of indemnification payments pursuant to this Lease. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within 10 days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question, subject to the rights of the Lessee to contest any Taxes in accordance with the

sixth paragraph of this § 6.

In the event that the Lessor shall become obligated to make any payment to Pullman, Thrall, NAC or the Vendor or otherwise pursuant to any corresponding provision of the CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

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

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

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

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of

notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSA. The Lessor will permit the Lessee to contest such claims under Article 6 of the CSA in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person, less the amount of any tax detriment to such Indemnified Person attributable to such refund or interest.

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

In the event that the Lessee becomes liable for

the payment or reimbursement of any Taxes pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES AND INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.

In the event that any Unit shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to § 14 or 17 hereof, or the purchase price of any Unit shall have been refunded by the builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental entity, whether foreign or domestic, resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the next succeeding monthly rental payment date (a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to § 14 or 17 hereof, the Lessee shall make such Casualty Value payment and accrued rental payment, if any, to the Lessor on a date 30 days after such Casualty Occurrence. Upon the making of such Casualty Value payment and accrued rental payment, if any, by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition

shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor, as the Casualty Value therefor, an amount equal to the Casualty Value as of the end of the term of the Lease in which the Casualty Occurrence shall have taken place. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value plus the Lessee's costs in such proceedings and any balance of such payments shall be the property of the Lessor provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing. In the event such Unit shall be returned by the governmental entity, such Unit shall be returned by the Lessee to the Lessor in the manner provided in § 17 hereof. If the Lessor shall elect to retain such Unit, the Lessee shall be entitled to immediate payment of the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee; and if the Lessor shall elect to sell such Unit, the Lessor shall cause such Unit to be sold, and the Lessee shall be entitled to the proceeds of such sale up to the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3. Lessee Agent for Disposal. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided that no Event of Default (or other event which after notice or

lapse of time or both would become an Event of Default) shall have occurred and be continuing (i) the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to Pullman or Thrall pursuant to the patent indemnity provisions of the CSA an amount equal to any payment made by Pullman or Thrall to the Lessor in respect thereof under the CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease and any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Vendee Purchase Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSA) as of such rental payment date.

7.6. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.7. Insurance To Be Maintained. (1) The Lessee will at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained public liability insurance with respect to third-party personal injury and property damage (for not less than \$25,000,000 for any one occurrence) and property insurance in an amount equal to the aggregate Casualty Value in respect of all Units at the time subject hereto. The Lessee will carry such insurance in such amounts, for such risks, with such deductibles and with such insurance companies, satisfactory to the Lessor and the Vendor and, in any event, consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured

against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Vendor, the Lessor and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSA shall not have been paid in full, and thereafter to the Lessor, and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor, (ii) name the Lessor and the Vendor as additional named insureds and as loss payees as their respective interests may appear, (iii) waive any right to claim any premiums or commissions against the Lessor and the Vendor and (iv) not be a part of an umbrella policy containing any aggregate coverage limitations. In the event such policies shall contain breach of warranty provisions such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not require contributions from other policies held by the Lessor or the Vendor and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor, respectively) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor, respectively). At least five days prior to the first date of delivery of any Unit pursuant to the CSA, and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Lessor and the Vendor certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest thereon at the rate per annum specified in § 19 hereof.

7.8. Insurance Proceeds and Condemnation Payments.

If the Lessor shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor (directly or from the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired by the Lessee.

§ 8. REPORTS

On or before March 31 in each year, commencing with the calendar year 1981, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSA, the total number, description and identification numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5.1 hereof and by the CSA have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Unit and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Lessor and the Vendor shall each have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Vendor may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against Pullman or Thrall under the provisions of Items 3 and 4 of Annex A of the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Vendor based on any of the foregoing matters.

§ 10. APPLICABLE LAWS

10.1. Compliance. The Lessee agrees, for the

benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent called "Applicable Laws"), and in the event that any Applicable Law requires any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the reasonable opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the CSA.

10.2. Reports by Lessor. The Lessee agrees to prepare and deliver to the Lessor and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor and the Vendor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee. No such report shall set forth information which is inconsistent with the ownership of the Units by the Lessor or which implies that this Lease is not a true lease.

§ 11. MAINTENANCE .

11.1. Units in Good Operating Order. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the Applicable Laws and in the same condition as other similar Equipment owned or leased by the

Lessee, which will conform to any conditions set forth in Pullman's and Thrall's warranties.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with § 11.2(2) hereof.

(2) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee will not make any addition, modification or improvement to any Unit which would not be readily removable without causing material damage to such Unit (other than Unit lining) without the prior written consent of the Lessor.

(3) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Vendee Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the Applicable Laws shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of

any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSA or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Lessor, the Vendor or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence or wilful misconduct of the Lessor; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSA or the Lease Assignment or the Participation Agreement (all such matters called "Indemnified Matters"), except to the extent such claim arises from the gross negligence or wilful misconduct of the Lessor. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to any Indemnified Matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or

proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States of America or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give the other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of such Indemnified Matter. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made and any costs incurred by the Lessee in defending such Indemnified Person. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Lessor under the CSA or a guarantee of the residual value of any Unit.

12.2. Indemnification of NAC, Thrall and Pullman.

The Lessee further agrees to indemnify, protect and hold harmless NAC, Thrall and Pullman as third-party beneficiaries hereof 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 NAC, Thrall or Pullman because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by Thrall or Pullman or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by Thrall or Pullman which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to Thrall or Pullman of any claim known to the Lessee from which liability may be charged against it hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this

Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any amount provided for in § 3, 7 or 16 hereof, and such default shall continue for 5 days;

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

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

(D) any representation or warranty made by the Lessee herein or in the Participation Agreement or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against

the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 30 days after such petition shall have been filed;

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

(G) the Lessee shall default in the payment of any indebtedness for borrowed money, when due and after expiration of any periods of grace, in excess of \$250,000, or if such indebtedness shall be declared due and payable prior to its stated maturity; or

(H) the Lessee shall fail to discharge a final judgment for the payment of money in excess of \$250,000

rendered against it within 90 days from the date of entry thereof;

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

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period), to recover any damages and expenses, including without limitation reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of this Lease and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Lessor, in its sole discretion shall specify, (i) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for each Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental

which the Lessor reasonably estimates to be obtainable for each Unit during such period (such present value to be computed in each case on the basis of a 7.38% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated) or, if such Unit is sold, the net proceeds of the sale or (ii) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the net proceeds of the sale of such Unit at such time; provided, however, that in the event the Lessor shall have sold any unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

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

13.3. Failure To Exercise Rights Is Not Waiver. The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

13.4. Notice of Event of Default. The Lessee agrees to furnish the Lessor and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor at no cost or expense to the Lessor. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

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

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge to the Lessor for insurance, rent or storage until all such Units have

been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any reasonable place as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

14.2. Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Lessor upon prior written consent of the Vendor and the Lessee, except that without such consent the rights of the Lessor hereunder shall be assignable to any Affiliate of the Lessor but without relieving the Lessor of its obligations hereunder or to any bank, trust company, financing company or other financial institution having a combined capital and surplus of at least \$50,000,000 and except that the rights of the Lessor hereunder shall be assignable to any other party so

long as the Lessor shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and the Lessee and any assignee hereof to indemnify the Vendor, the Lessee and any assignee hereof and to hold the Vendor, the Lessee and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor, the Lessee or any assignee hereof resulting from, arising out of or in connection with such assignment. For the purpose of the § 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the party in question, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the CSA. Without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Lessor and the Vendor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of paragraph (2) of this § 15.2. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

(2) So long as (i) no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units by it or any Affiliate upon lines of railroad owned or operated by it or any such Affiliate or upon lines of railroad over which the Lessee or any such Affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such Affiliate is regularly operated pursuant to contract and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. The Lessee may sublease the Units without the consent of the Lessor, but only upon and subject to all the terms and conditions of this Lease and the CSA, to any financially responsible entity for a period of up to two years; provided, however, that (i) a copy of each such sublease shall be furnished to the Lessor prior to its effective date, (ii) the Lessee shall remain primarily liable for all payments due and obligations to be fulfilled hereunder and (iii) each such sublease shall contain words to the following effect: "The rights of the sublessee under this sublease are subordinate and junior to the rights and remedies of Chemical Bank (the 'Lessor') under a Lease of Railroad Equipment (the 'Lease') dated as of April 1, 1980, between Peavey Company and the Lessor and to the rights of La Salle National Bank under the Conditional Sale Agreement referred to in the Lease"; provided further, however, that the Lessee shall not sublease or permit the use of any Unit predominantly outside the United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease to, or permit the use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may sublease the Units for a longer period of time with the consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units.

15.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of

Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease and provided that the net worth of such surviving entity will not be less than the net worth of the Lessee prior to such transaction.

§ 16. RENEWAL OPTION

16.1. Renewal Option. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of any Unit pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc. ("TFS"), pursuant to which the Lessor will grant to TFS the option to lease all but not less than all of the Units then subject to this Lease for one five-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if TFS shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee may, by written notice delivered to the Lessor not less than 180 days nor more than 270 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years or such other time acceptable to both the Lessee and Lessor commencing on the scheduled expiration of such original term of this Lease, at Fair Market Rental (as defined in § 16.2 hereof) payable, in arrears, in monthly payments on the day such rentals were payable for the Units in each year of such original term. In the event of any such renewal, the Casualty Value payable in respect of a Casualty Occurrence involving any Unit shall be as set forth in Appendix B hereto.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for the extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would be obtained in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such

determination, costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, either party to such determination may give written notice to the other requesting determination of such value by an appraisal procedure and the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof. The expenses of the appraisal procedure shall be borne by the Lessee.

§ 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 30 days thereafter, the Lessee will, at its own cost and expense, at

the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may reasonably designate (such storage tracks to be located in one of the following states: Illinois, Iowa, Minnesota, Montana, Nebraska, North Dakota or South Dakota), or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such unit and transport the same upon disposition of the Units, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect for railroad interchange under the Applicable Laws and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in § 11 hereof and have removed therefrom any such device not so considered an accession or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor at no cost or expense to the Lessor. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. If any Unit is not so delivered in the condition required to be delivered under this § 17 within 30 days after the expiration of this Lease or any renewal hereof, the Lessee shall pay to the Lessor for each day thereafter until such Unit is so

delivered an additional amount equal to the higher of the daily interchange rate for that interchange or 0.030673% of the Vendee Purchase Price of such Unit per day.

§ 18. FILING

The Lessee, at its own expense, will cause this Lease, the CSA, the CSA Assignment and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing required of the Lessor under the CSA. The Lessee in addition will from time to time do and perform any other act and will execute, acknowledge, deliver and file (and will refile whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA, the CSA Assignment and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSA, the CSA Assignment and the Lease Assignment shall be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Unit.

§ 19. INTEREST ON OVERDUE RENTALS

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at the higher of 11.6% per annum or 2% above the prime rate of Chemical Bank from time to time in effect on the overdue rentals and other obligations for the period of time during which they are overdue, or such lesser amount as may be legally enforceable.

§ 20. LESSOR'S RIGHT TO PERFORM FOR LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon

notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the higher of 11.6% per annum or 2% above the prime rate of Chemical Bank from time to time in effect shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder.

§ 21. NOTICES

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

(a) if to the Lessor, at Suite 1822, 55 Water Street, New York, New York 10087, attention of Manager, Specialized Leasing Group, with a copy to Richard H. Gilden, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022;

(b) if to the Lessee, at 730 Second Avenue South, Minneapolis, Minnesota 55402, attention of Legal Department,

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department.

§ 22. SEVERABILITY

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

§ 23. EFFECT AND MODIFICATION OF LEASE

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

§ 24. THIRD-PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Vendor, any builder and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

§ 25. EXECUTION

This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

§ 26. GOVERNING LAW

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Minnesota, except that the rights and obligations of the parties under § 30 hereof shall be governed by the laws of the State of New York; and provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. IMMUNITIES; NO RECOURSE

No recourse shall be had in respect of any obligation due under this Lease, 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 Lease.

§ 28. AGREEMENTS FOR BENEFIT OF
LESSOR'S ASSIGNS

All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns, including the Vendor.

§ 29. TERM LESSOR

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor including, so long as any CSA Indebtedness under the CSA or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor.

§ 30. TAXES

30.1. Tax Assumptions. It is the intent of the Lessor and Lessee that this Lease will be recognized as a lease for all Federal, state, city and local taxes based on or measured by the income of the Lessor and that this Lease does not convey to the Lessee any right, title or interest in the Units except as lessee and that for United States income tax purposes (and to the extent applicable for state and local tax purposes) the Lessor will be treated as the beneficial owner of the Units purchased by it and shall be entitled to such deductions and other benefits (other than the investment tax credit attributable to the Equipment) as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (the "Code"), to an owner of new property including (without limitation) (a) the depreciation deduction with respect to the Units employing a useful life of 12 years

pursuant to the Asset Depreciation Range, Asset Guideline Class 00.25 based on an amount at least equal to the Vendee Purchase Price of the Units to the Lessor employing the double declining balance method, changing when most beneficial to the Lessor to the sum-of-the-years-digits method, and a salvage value of zero (the "Depreciation Deduction") and (b) deductions with respect to interest payable in connection with the CSA Indebtedness incurred under the CSA pursuant to section 163 of the Code (the "Interest Deduction"). Nothing herein shall preclude the Lessor from claiming any deductions or other benefits (other than the investment tax credit attributable to the Equipment) as provided in the Code in a manner other than as set forth in this § 30.1; provided, however, that the Lessee's obligations under this section shall in all cases be based solely on the assumptions with respect to the Depreciation Deduction and Interest Deduction set forth in this § 30.1.

30.2. Agreements and Representations. The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing or which would increase the amount of rentals required to be taken into income by the Lessor over the amount specified to be payable under this Lease on the dates due hereunder, except as specifically provided in this Lease, and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof. The Lessee agrees to keep and make available for inspection and copying by the Lessor such records as will enable the Lessor to determine the extent to which it is entitled to the benefit of the Depreciation Deduction with respect to the Units.

The Lessee represents, covenants and warrants that (i) at the time the Lessor becomes the owner for tax purposes of any Units, such Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of section 167(c)(2) of the Code from commencing with the Lessor; (ii) the Lessor will be entitled to treat each item of income and deduction arising out of or with respect to the acquisition and lease of the Equipment as derived from sources within the United States of America, (iii) none of the Units will be "used predominantly outside the

United States" within the meaning of Section 48(a)(2) of the Code during any calendar year; (iv) the Lessee will maintain sufficient records to verify the use set forth in the foregoing clauses (i), (ii) and (iii), which records will be retained for at least six years (or such longer period as is reasonably requested by Lessor) and be furnished to the Lessor as soon as possible, but in any event, within 30 days after receipt of a written demand therefor; (v) all of the Units constitute property the basis (i.e., the Vendee Purchase Price) of which qualifies for the Depreciation Deduction and during the term of the Lease all Units will constitute such property; (vi) the Equipment will be "placed in service" prior to December 31, 1980; and (vii) it is the belief of the Lessee that the independent appraisal delivered to the Lessor in connection with the acquisition of the Equipment is reasonable and the facts and assumptions contained therein are correct.

The Lessor agrees that it will execute and deliver to the Lessee an appropriate statement prepared by the Lessee containing the information prescribed by Treas. Reg. § 1.48-4(f) or (g) on or before the due date of the Lessee's Federal income tax return for its taxable year ended July 31, 1980.

30.3. Indemnification. (a) If by reason of any act, omission or misrepresentation of the Lessee (including but not limited to the inaccuracy in law or in fact of the representations, warranties and covenants set forth in § 30.2 hereof or the failure of the Lessee to furnish the notice to the Lessor contemplated by § 30.9 hereof or any inaccuracy in such notice) or due to a change in the Code or Regulations occurring on or prior to the date of acceptance of any of the Units under the Lease or a change in the Code or Regulations which shall become effective on or prior to such date, the Lessor shall not be entitled to, or shall lose, or shall not have, or shall lose the right to claim, or shall suffer a disallowance of, or shall be required to recapture all or any portion of, the Depreciation Deduction or the Interest Deduction with respect to all or part of any Unit or the Lessor shall not be entitled to treat each item of income and deduction as being derived from sources within the United States (any such loss, disallowance, recapture or treatment called the "Loss"), then, the Lessee shall, beginning with the next succeeding rental payment date after written notice is given to the Lessee by the Lessor of such fact, and on

each succeeding rental payment date, pay to the Lessor, pursuant to this section, such amount or amounts as shall, in the reasonable opinion of Lessor, cause the net after tax rate of return and net after tax cash flow of the Lessor to at least equal the net after tax rate of return and net after tax cash flow that would have been realized by the Lessor if such Loss had not occurred (which it is understood includes giving effect to any Federal, state or local taxes based on or measured by the income of the Lessor required to be paid by Lessor with respect to the receipt of payments made by the Lessee to the Lessor pursuant to the operation of this paragraph) and the Lessee shall forthwith pay to the Lessor the amount which, when reduced by any increase in the Lessor's tax liability or liabilities resulting from the Lessor's receipt of such amount will equal the amount of any interest, additions to tax and/or penalties which may be assessed by the United States of America or any state or local taxing authority against Lessor attributable to such Loss.

For the calculation of the net after tax rate of return and net after tax cash flow to the Lessor, a combined Federal, state and local income tax rate of 59.05% and a discount rate of 14% shall be assumed.

(b) Payment shall not be required to be made by the Lessee to the extent that the Lessor shall have suffered such Loss with respect to all or part of such Unit solely as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit if the Lessee shall have paid to the Lessor the amounts stipulated under § 7 hereof;

(ii) a voluntary transfer or other voluntary disposition by the Lessor of any interest in such Unit unless an Event of Default shall have occurred and be continuing hereunder;

(iii) the failure of the Lessor to claim in a timely or proper manner the Depreciation Deduction or the Interest Deduction, unless the Lessor shall have received an opinion of an independent tax counsel reasonably satisfactory to the Lessee to the effect that the Lessor is not entitled to claim the Depreciation Deduction or the Interest Deduction; or

(iv) a change in the Code enacted after the delivery of the Units.

30.4. Change in Law. If the deductions or other benefits to which the Lessor is entitled are increased or decreased by a change in law (other than a change in income tax rates) that is effective prior to the acceptance of the Units by the Lessor which are affected by the change, the rental and Casualty Value hereunder shall be reasonably adjusted by the Lessor so that the net after tax rate of return and net after tax cash flow of the Lessor shall not be increased or decreased by reason of such change; provided, however, that any decreases of the rental or Casualty Value pursuant to this section shall not cause such items to be less than the amounts required to satisfy the CSA Indebtedness and any interest thereon.

30.5. Change in Casualty Values. In the event that increased rental payments are required of the Lessee under this Section, the Casualty Values shall be increased or decreased accordingly for the purposes of this section and, upon the subsequent occurrence of a Casualty Occurrence, the Lessee shall pay under this Section any increase or decrease in such Casualty Values, as the case may be, at the same time as the payment of Casualty Value is due to be paid to the Lessor by the Lessee under this Lease as a result of such Casualty Occurrence; provided that in no event shall such Casualty Values be reduced below the amount required to be paid by the Lessor under the CSA in the event of a Casualty Occurrence.

30.6. Tax Claim. If a claim shall be made by the Internal Revenue Service (the "Service"), with respect to the income tax liability of the Lessor attributable to its investment in the Units which, if successful, would lead to increased rental payments by the Lessee hereunder, the Lessor shall give prompt notice of such claim to the Lessee and the Lessor shall take such action to contest such claim as the Lessee shall reasonably request in writing from time to time, provided that within 8 days after Lessee's actual receipt of said notice by the Lessor of such proposed adjustment the Lessee shall request that such adjustment be contested; and further provided that an Event of Default shall not be continuing hereunder and the Lessee shall not have failed to make any payments when due under this Section. For purposes of this Section, "prompt notice" shall mean written notice to the Lessee by the later to occur of (a) 15 days after receipt

of such notice by Lessor from the Service or (b) such time as would permit a contest of any claim made by the Service. The Lessor may, in its discretion, forego any administrative appeal with the Service in respect of such claim and may, at its option, either pay the tax claimed and sue for refund in the appropriate United States District Court or in the United States Court of Claims, as it may elect, or contest such claim in the United States Tax Court, considering, however, in good faith such request as the Lessee may make concerning the most appropriate forum in which to proceed; provided, however, that the final decision as to selection of the forum shall be solely that of the Lessor. If the Lessor pays the tax claimed and sues for refund, payments by the Lessee shall be required so as to maintain the net after tax rate of return and net after tax cash flow of the Lessor in the manner and to the extent provided in this section, and, in addition to its obligations under § 30.3 hereof, the Lessee shall forthwith pay to the Lessor the amount which, when reduced by any increase in the Lessor's tax liability or liabilities resulting from the Lessor's receipt of such amount, will equal the amount of any interest, additions to tax and/or penalty assessed against the Lessor with respect to such additional income tax. If the Lessor receives a refund as a result of contesting such claim and the rental under the Lease shall have previously been adjusted or any payment shall previously have been made by the Lessee as a result of the Loss which was the subject of such contest, the Lessor shall forthwith pay to the Lessee any interest on the refund paid by the taxing jurisdiction net of any tax detriment to the Lessor attributable to the receipt of such interest together with the appropriate amount with respect to any interest and/or penalty payments which should not have been assessed against and paid by the Lessee to the Lessor pursuant to the preceding sentence, and the payments of the Lessee with respect to such claim shall, beginning with the next rental payment due after receipt by the Lessor of such refund, be decreased to such amount or amounts as shall, in the reasonable opinion of the Lessor, cause the net after tax rate of return and net after tax cash flow of the Lessor over the term of the Lease to at least equal the net after tax rate of return and net after tax cash flow that would have been realized by the Lessor if additional income taxes of the Lessor in the amount refunded had not been paid, but in no event shall such rentals be reduced below the amounts required to satisfy the obligations of the Lessor under the CSA. Any such contest shall be at the sole expense of the Lessee and the Lessee agrees to pay to the Lessor on demand

any reasonable expense attributable to the contest with respect to the Equipment to be incurred by the Lessor in connection with such contest; and the Lessor shall have no obligation to continue such contest in the event the Lessee fails to make such payment within 10 days after actual receipt of written demand.

30.7. Survival. The agreements to pay any sums which may become payable pursuant to this section shall survive the expiration or other termination of this Lease or the Lessee's interest herein; and the Lessee's obligations hereunder shall be assumed by the assignee if this Lease shall be assigned by the Lessee as provided in Section 15.2 hereof.

30.8. Capital Expenditures. In the event and to the extent that the cost of any improvements and/or additions ("Capital Expenditures") to a Unit made by the Lessee, under and pursuant to the terms hereof or otherwise, is required to be included in the gross income of the Lessor for purposes of Federal, state or local taxes based on or measured by the income of the Lessor at any time prior to the time such Unit is disposed of in a taxable transaction, then the Lessee shall, beginning with the next succeeding rental payment date after the date on which the Lessee is required to furnish written notice thereof to the Lessor pursuant to § 30.9 hereof after said inclusion in the gross income of the Lessor is required, and on each succeeding rental payment date, pay to the Lessor such amount or amounts as shall, in the reasonable opinion of the Lessor, cause the net after tax rate of return and net after tax cash flow of the Lessor to at least equal the net after tax rate of return and net after tax cash flow that would have been realized by it if the cost of such Capital Expenditures had not been includible in its gross income, provided that the Lessee shall not be required to make any such payments unless the Lessor agrees in writing to contest such inclusion if requested in writing by the Lessee and as provided in §§ 30.6 and 30.10 hereof.

For the purposes of this section the cost of Capital Expenditures made by the Lessee shall be deemed to be "required to be included in the gross income of the Lessor for Federal, state or local income tax purposes" if such inclusion is required by any provision of the Code, any applicable regulations enacted or adopted thereunder, any published revenue ruling of the Service which has not been

held invalid by a court having appellate jurisdiction over the Federal income tax liability of the Lessor in a decision which has become final, or an assessment or proposed adjustment by the Service with respect to such amounts.

The Lessee agrees to make a payment to the Lessor for any interest, additions to tax and/or penalties resulting from the failure to include the cost of Capital Expenditures in its income tax return, such payment to be made upon demand in an amount, when reduced by any increase in the Lessor's tax liability resulting from Lessor's receipt of such payment, sufficient to restore the Lessor to the same position it would have been in had such interest, additions to tax and/or penalties not been imposed; and such amount shall be determined in the reasonable opinion of the Lessor.

30.9. Notices of Capital Expenditures. The Lessee agrees that, within 30 days after the close of Lessor's fiscal year in which the Lessee has made Capital Expenditures which are of a type or which the Lessee believes are of a type, or are of a type which the Lessee has been advised by the Lessor may be of a type, required to be included in the gross income of the Lessor for Federal, state or local income tax purposes prior to the time such Unit is disposed of in a taxable transaction, the Lessee will give written notice thereof to the Lessor describing such Capital Expenditures in reasonable detail and specifying the cost thereof with respect to each Unit.

30.10. Contest by Lessor. Notwithstanding any provision in this Section to the contrary, the Lessor shall not be required to contest in a judicial proceeding any disallowance or proposed disallowance by the Service with respect to the Depreciation Deduction or the Interest Deduction of the Lessor or the includibility of the cost of any Capital Expenditure in the gross income of the Lessor unless the Lessor shall have received an opinion from independent tax counsel selected by Lessee and accepted by the Lessor that there is a reasonable basis for contesting such liability, inclusion or other matters.

30.11. Penalty Interest. Notwithstanding any provision herein to the contrary, any nonpayment of any obligation under this Section when due shall result in the additional obligation on the part of the obligor promptly to pay, to the extent legally enforceable, an amount equal to interest at the higher of 11.6% per annum or 2% above

the prime rate of Chemical Bank from time to time in effect on the amount of the obligation overdue for the period of time during which the obligation is overdue.

30.12. Disagreement by Parties. In the event of disagreement between the parties as to the amount of any payment due under this Section, the parties agree to submit the calculation of such payments to one of the eight largest public accounting firms in the United States of America, chosen by mutual agreement, or to Price Waterhouse & Co., and such firm shall perform the calculation which will be binding on both parties. Costs incurred by either party in respect to such submission shall be borne equally by the Lessor and the Lessee.

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

PEAVEY COMPANY,

by

J. M. DeLoach

Vice President

[Corporate Seal]

Attest:

Sharon L. Langan

Assistant Secretary

CHEMICAL BANK,

by

Vice President

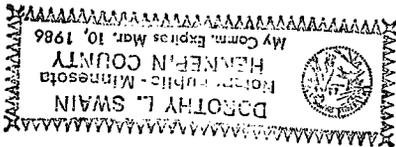
[Corporate Seal]

Attest:

Assistant Secretary

STATE OF MINNESOTA,)
) ss.:
COUNTY OF HENNEPIN,)

On this *19th* day of *May* 1980, before me personally appeared *J. B. McCain*, to me personally known, who, being by me duly sworn, says that he is a Vice President of PEAVEY COMPANY, a Minnesota 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.

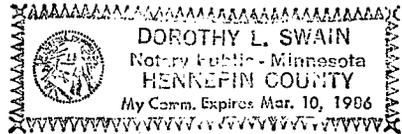


Dorothy L. Swain

Notary Public

[Notarial Seal]

My Commission expires *March 10, 1986*



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

On this _____ day of _____ 1980, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Vice President of CHEMICAL BANK, a New York banking 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.

Notary Public

[Notarial Seal]

My Commission expires _____

APPENDIX A TO THE LEASE

Units Leased

<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>
100-Ton 4,750- cubic foot Covered Hopper Cars	LO	1072	Butler, Pennsylvania	150	PVGX 1200- PVGX 1349	\$47,790 47,940 <i>John</i>	\$7,168,500 7,191,000 <i>John</i>	May- June 1980 at Butler, Pennsylvania
100-Ton 4,750- cubic foot Covered Hopper Cars	LO	HC-100 47-187-A	Chicago Heights, Illinois	25	PVGX 1350- PVGX 1374	47,940	1,198,500	May- June 1980 at Hager, Wisconsin
100-Ton 4,750- cubic foot Covered Hopper Cars	LO	HC-100 47-187-A	Chicago Heights, Illinois	125	PVGX 2000- PVGX 2124	47,940	5,992,500	May- June 1980 at West Burlington, Wisconsin

APPENDIX B TO THE LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>	<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>
10/80	108.4329	1/84	108.2029
11/80	108.6169	2/84	108.0149
12/80	108.8009	3/84	107.8249
1/81	108.9869	4/84	107.6329
2/81	109.1729	5/84	107.4149
3/81	109.3599	6/84	107.1949
4/81	109.5469	7/84	106.9729
5/81	108.4089	8/84	106.7559
6/81	108.5979	9/84	106.5169
7/81	108.7869	10/84	106.2759
8/81	108.9439	11/84	106.0199
9/81	109.0839	12/84	106.3079
10/81	109.2249	1/85	105.5009
11/81	109.3149	2/85	105.2169
12/81	109.4049	3/85	104.9309
1/82	109.4959	4/85	104.6419
2/82	109.5689	5/85	104.3299
3/82	109.6419	6/85	104.0149
4/82	109.7159	7/85	103.6979
5/82	109.7719	8/85	103.3849
6/82	109.8279	9/85	103.0539
7/82	109.8839	10/85	102.7189
8/82	109.9129	11/85	102.3739
9/82	109.9129	12/85	102.0249
10/82	109.9119	1/86	101.6729
11/82	109.8549	2/86	101.3019
12/82	109.7959	3/86	100.9269
1/83	109.7369	4/86	100.5489
2/83	109.6469	5/86	100.1519
3/83	109.5549	6/86	99.7509
4/83	109.4629	7/86	99.3459
5/83	109.3389	8/86	98.9459
6/83	109.2129	9/86	98.5309
7/83	109.0869	10/86	98.1119
8/83	108.9699	11/86	97.6859
9/83	108.8269	12/86	97.2549
10/83	108.6829	1/87	96.8209
11/83	108.5249	2/87	96.3729
12/83	108.3649	3/87	95.9209

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>	<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>
4/87	95.4649	1/91	70.1479
5/87	94.9999	2/91	69.5039
6/87	94.5309	3/91	68.8549
7/87	94.0579	4/91	68.1999
8/87	93.5849	5/91	67.5449
9/87	93.1039	6/91	66.8839
10/87	92.6189	7/91	66.2169
11/87	92.1299	8/91	65.5539
12/87	91.6369	9/91	64.8969
1/88	91.1389	10/91	64.2329
2/88	90.6349	11/91	63.5839
3/88	90.1259	12/91	62.9299
4/88	89.6119	1/92	62.2689
5/88	89.0909	2/92	61.6139
6/88	88.5659	3/92	60.9529
7/88	88.0359	4/92	60.2849
8/88	87.5049	5/92	59.6229
9/88	86.9679	6/92	58.9549
10/88	86.4259	7/92	58.2799
11/88	85.8809	8/92	57.6099
12/88	85.3319	9/92	56.9489
1/89	84.7779	10/92	56.2829
2/89	84.2179	11/92	55.6369
3/89	83.6529	12/92	54.9849
4/89	83.0829	1/93	54.3269
5/89	82.5069	2/93	53.6789
6/89	81.9259	3/93	53.0239
7/89	81.3399	4/93	52.3639
8/89	80.7519	5/93	51.7139
9/89	80.1599	6/93	51.0569
10/89	79.5619	7/93	50.3949
11/89	78.9629	8/93	49.7359
12/89	78.3579	9/93	49.0939
1/90	77.7489	10/93	48.4449
2/90	77.1339	11/93	47.8219
3/90	76.5139	12/93	47.1929
4/90	75.8889	1/94	46.5509
5/90	75.2589	2/94	45.9179
6/90	74.6229	3/94	45.2709
7/90	73.9809	4/94	44.6119
8/90	73.3429	5/94	43.9599
9/90	72.7059	6/94	43.2959
10/90	72.0629	7/94	42.6179
11/90	71.4309	8/94	41.9349
12/90	70.7919	9/94	41.2639

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>	<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>
10/94	40.5799	1/98	28.5919
11/94	39.9149	2/98	28.4239
12/94	39.2379	3/98	28.2639
1/95	38.5469	4/98	28.0939
2/95	37.8679	5/98	27.9289
3/95	37.1759	6/98	27.7589
4/95	36.4699	7/98	27.5849
5/95	35.7769	8/98	27.4069
6/95	35.5309	9/98	27.2329
7/95	35.2859	10/98	27.0549
8/95	35.0399	11/98	26.8819
9/95	34.7939	12/98	26.7049
10/95	34.5479	1/99	26.5229
11/95	34.3029	2/99	26.3459
12/95	34.0569	3/99	26.1639
1/96	33.8109	4/99	25.9789
2/96	33.5649	5/99	25.6749
3/96	33.3199	6/99	25.5529
4/96	33.0739	7/99	25.4299
5/96	32.8279	8/99	25.3079
6/96	32.5819	9/99	25.1849
7/96	32.3369	10/99	25.0619
8/96	32.0909	11/99	24.9399
9/96	31.8449	12/99	24.8169
10/96	31.5989	1/00	24.6949
11/96	31.3539	2/00	24.5719
12/96	31.1079	3/00	24.4489
1/97	30.8619	4/00	24.3269
2/97	30.6159	5/00	24.2039
3/97	30.3709	6/00	24.0809
4/97	30.1249	7/00	23.9589
5/97	29.7609	8/00	23.8359
6/97	29.6389	9/00	23.7139
7/97	29.5129	10/00	23.5909
8/97	29.3659		
9/97	29.2249		
10/97	29.0789		
11/97	28.9209		
12/97	28.7579		

[CS&M Ref. 1696-039]

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1980

Between

PEAVEY COMPANY,

Lessee,

and

CHEMICAL BANK,

Lessor.

[Covering 300 4,750-cubic foot Covered Hopper Cars]

LEASE OF RAILROAD EQUIPMENT

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* This Table of Contents has been provided for convenience only and does not affect any interpretation of this document.

LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1980, between PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), and CHEMICAL BANK, a New York banking corporation (the "Lessor").

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (the "CSA") with each of PULLMAN INCORPORATED (Pullman Standard Division) ("Pullman") and THRALL CAR MANUFACTURING COMPANY ("Thrall") and NORTH AMERICAN CAR CORPORATION ("NAC") wherein Pullman and Thrall have severally agreed to manufacture, sell and deliver to NAC, and NAC has agreed to sell conditionally and deliver to the Lessor, the units of railroad equipment described in Appendix A hereto (the "Equipment");

WHEREAS NAC is assigning certain of its interests in the CSA to LA SALLE NATIONAL BANK, acting as agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") between the Lessee, the Vendor, the Lessor and the parties named in Appendix I thereto;

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

WHEREAS the Lessor will assign this Lease as security to the Vendor pursuant to an Assignment of Lease and Agreement dated as of the date hereof (the "Lease Assignment");

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifi-

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

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Lessor under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at

which such Unit is so delivered to the Lessor. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor under the CSA and on behalf of itself hereunder and execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. RENTALS

3.1. Amount and Date of Payment. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on October 31, 1980, and 180 consecutive monthly payments payable, in arrears, on the last day of each month, commencing November 30, 1980, to and including October 31, 1995. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the product of the Vendee Purchase Price (as defined in Paragraph 4.1 of the CSA) for each such Unit subject to this Lease multiplied by 0.02896175% for each day elapsed from and including the Closing Date (as defined in Paragraph 4.2 of the CSA) for such Unit to, but not including, October 31, 1980, and (b) the 180 monthly rental payments shall each be in an amount equal to 0.9202% of the Vendee Purchase Price of each such Unit. In addition to the foregoing, the Lessee agrees to pay to the Lessor as additional rental an amount equal to any deficiency in interest payable by the Lessor pursuant to the second paragraph of Paragraph 2 of the Participation Agreement, payable on the date such deficiency is due thereunder.

Anything in the foregoing provisions of this § 3.1 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3.1 on each rental payment date shall in no event be less than the principal and/or interest payment due on each such date pursuant to Article 4 of the CSA.

3.2. Payments on Nonbusiness Days. If any of the rental payment dates referred to in § 3.1 is not a business day the rental payment otherwise payable on such date shall

be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, or New York, New York, are authorized or obligated to remain closed.

3.3. Instructions To Pay Assignee. Upon execution and delivery of any lease assignment in writing and until the Lessee shall have been otherwise advised in writing, the Lessee shall pay all amounts so assigned in accordance with the instructions of any assignee.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit under the CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to the CSA. Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent (as defined in the Participation Agreement) and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this

Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 hereof.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in the case of any Unit not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the CSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed by the Lessee in all public offices where this Lease and the CSA shall have been filed and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed, such filing will protect the Vendor's and the Lessor's interests in such Units and no filing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

5.2. Insignia of Lessee. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates, but the Lessee will not allow the name of any other person, association or

corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. GENERAL TAX INDEMNIFICATION

Whether or not the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, hold harmless and indemnify on a net after-tax basis the Lessor and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, additions to tax, assessments, fees, withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties, fines and interest (all such taxes, additions to tax, assessments, fees, withholdings, governmental charges, penalties, fines and interest being hereinafter called "Taxes"), howsoever imposed, whether levied, imposed on, or otherwise incurred by or asserted by any Federal, state or local government or governmental subdivision in the United States or any foreign country or subdivision thereof, against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease, the CSA, the CSA Assignment, the Lease Assignment or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured solely by the net income or excess profits of the Lessor or the Vendor, other than Taxes arising out of or imposed with respect to the receipt of indemnification payments pursuant to this Lease. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within 10 days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question, subject to the rights of the Lessee to contest any Taxes in accordance with the

sixth paragraph of this § 6.

In the event that the Lessor shall become obligated to make any payment to Pullman, Thrall, NAC or the Vendor or otherwise pursuant to any corresponding provision of the CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

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

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

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

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of

notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSA. The Lessor will permit the Lessee to contest such claims under Article 6 of the CSA in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person, less the amount of any tax detriment to such Indemnified Person attributable to such refund or interest.

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

In the event that the Lessee becomes liable for

the payment or reimbursement of any Taxes pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES AND INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.

In the event that any Unit shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to § 14 or 17 hereof, or the purchase price of any Unit shall have been refunded by the builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental entity, whether foreign or domestic, resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the next succeeding monthly rental payment date (a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to § 14 or 17 hereof, the Lessee shall make such Casualty Value payment and accrued rental payment, if any, to the Lessor on a date 30 days after such Casualty Occurrence. Upon the making of such Casualty Value payment and accrued rental payment, if any, by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition

shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor, as the Casualty Value therefor, an amount equal to the Casualty Value as of the end of the term of the Lease in which the Casualty Occurrence shall have taken place. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value plus the Lessee's costs in such proceedings and any balance of such payments shall be the property of the Lessor provided that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing. In the event such Unit shall be returned by the governmental entity, such Unit shall be returned by the Lessee to the Lessor in the manner provided in § 17 hereof. If the Lessor shall elect to retain such Unit, the Lessee shall be entitled to immediate payment of the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee; and if the Lessor shall elect to sell such Unit, the Lessor shall cause such Unit to be sold, and the Lessee shall be entitled to the proceeds of such sale up to the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3. Lessee Agent for Disposal. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided that no Event of Default (or other event which after notice or

lapse of time or both would become an Event of Default) shall have occurred and be continuing (i) the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to Pullman or Thrall pursuant to the patent indemnity provisions of the CSA an amount equal to any payment made by Pullman or Thrall to the Lessor in respect thereof under the CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease and any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Vendee Purchase Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSA) as of such rental payment date.

7.6. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.7. Insurance To Be Maintained. (1) The Lessee will at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained public liability insurance with respect to third-party personal injury and property damage (for not less than \$25,000,000 for any one occurrence) and property insurance in an amount equal to the aggregate Casualty Value in respect of all Units at the time subject hereto. The Lessee will carry such insurance in such amounts, for such risks, with such deductibles and with such insurance companies, satisfactory to the Lessor and the Vendor and, in any event, consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured

against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Vendor, the Lessor and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSA shall not have been paid in full, and thereafter to the Lessor, and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor, (ii) name the Lessor and the Vendor as additional named insureds and as loss payees as their respective interests may appear, (iii) waive any right to claim any premiums or commissions against the Lessor and the Vendor and (iv) not be a part of an umbrella policy containing any aggregate coverage limitations. In the event such policies shall contain breach of warranty provisions such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not require contributions from other policies held by the Lessor or the Vendor and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor, respectively) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor, respectively). At least five days prior to the first date of delivery of any Unit pursuant to the CSA, and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Lessor and the Vendor certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest thereon at the rate per annum specified in § 19 hereof.

7.8. Insurance Proceeds and Condemnation Payments.

If the Lessor shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor (directly or from the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired by the Lessee.

§ 8. REPORTS

On or before March 31 in each year, commencing with the calendar year 1981, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSA, the total number, description and identification numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5.1 hereof and by the CSA have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Unit and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Lessor and the Vendor shall each have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Vendor may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against Pullman or Thrall under the provisions of Items 3 and 4 of Annex A of the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Vendor based on any of the foregoing matters.

§ 10. APPLICABLE LAWS

10.1. Compliance. The Lessee agrees, for the

benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent called "Applicable Laws"), and in the event that any Applicable Law requires any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the reasonable opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the CSA.

10.2. Reports by Lessor. The Lessee agrees to prepare and deliver to the Lessor and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor and the Vendor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee. No such report shall set forth information which is inconsistent with the ownership of the Units by the Lessor or which implies that this Lease is not a true lease.

§ 11. MAINTENANCE

11.1. Units in Good Operating Order. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the Applicable Laws and in the same condition as other similar Equipment owned or leased by the

Lessee, which will conform to any conditions set forth in Pullman's and Thrall's warranties.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with § 11.2(2) hereof.

(2) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee will not make any addition, modification or improvement to any Unit which would not be readily removable without causing material damage to such Unit (other than Unit lining) without the prior written consent of the Lessor.

(3) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Vendee Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the Applicable Laws shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of

any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSA or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Lessor, the Vendor or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence or wilful misconduct of the Lessor; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSA or the Lease Assignment or the Participation Agreement (all such matters called "Indemnified Matters"), except to the extent such claim arises from the gross negligence or wilful misconduct of the Lessor. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to any Indemnified Matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or

proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States of America or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give the other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of such Indemnified Matter. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made and any costs incurred by the Lessee in defending such Indemnified Person. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Lessor under the CSA or a guarantee of the residual value of any Unit.

12.2. Indemnification of NAC, Thrall and Pullman.

The Lessee further agrees to indemnify, protect and hold harmless NAC, Thrall and Pullman as third-party beneficiaries hereof 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 NAC, Thrall or Pullman because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by Thrall or Pullman or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by Thrall or Pullman which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to Thrall or Pullman of any claim known to the Lessee from which liability may be charged against it hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this

Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any amount provided for in § 3, 7 or 16 hereof, and such default shall continue for 5 days;

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

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

(D) any representation or warranty made by the Lessee herein or in the Participation Agreement or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against

the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 30 days after such petition shall have been filed;

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

(G) the Lessee shall default in the payment of any indebtedness for borrowed money, when due and after expiration of any periods of grace, in excess of \$250,000, or if such indebtedness shall be declared due and payable prior to its stated maturity; or

(H) the Lessee shall fail to discharge a final judgment for the payment of money in excess of \$250,000

rendered against it within 90 days from the date of entry thereof;

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

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period), to recover any damages and expenses, including without limitation reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of this Lease and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Lessor, in its sole discretion shall specify, (i) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for each Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental

which the Lessor reasonably estimates to be obtainable for each Unit during such period (such present value to be computed in each case on the basis of a 7.38% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated) or, if such Unit is sold, the net proceeds of the sale or (ii) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the net proceeds of the sale of such Unit at such time; provided, however, that in the event the Lessor shall have sold any unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

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

13.3. Failure To Exercise Rights Is Not Waiver. The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

13.4. Notice of Event of Default. The Lessee agrees to furnish the Lessor and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor at no cost or expense to the Lessor. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

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

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge to the Lessor for insurance, rent or storage until all such Units have

been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any reasonable place as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

14.2. Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Lessor upon prior written consent of the Vendor and the Lessee, except that without such consent the rights of the Lessor hereunder shall be assignable to any Affiliate of the Lessor but without relieving the Lessor of its obligations hereunder or to any bank, trust company, financing company or other financial institution having a combined capital and surplus of at least \$50,000,000 and except that the rights of the Lessor hereunder shall be assignable to any other party so

long as the Lessor shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and the Lessee and any assignee hereof to indemnify the Vendor, the Lessee and any assignee hereof and to hold the Vendor, the Lessee and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor, the Lessee or any assignee hereof resulting from, arising out of or in connection with such assignment. For the purpose of the § 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the party in question, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the CSA. Without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Lessor and the Vendor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of paragraph (2) of this § 15.2. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

(2) So long as (i) no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units by it or any Affiliate upon lines of railroad owned or operated by it or any such Affiliate or upon lines of railroad over which the Lessee or any such Affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such Affiliate is regularly operated pursuant to contract and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. The Lessee may sublease the Units without the consent of the Lessor, but only upon and subject to all the terms and conditions of this Lease and the CSA, to any financially responsible entity for a period of up to two years; provided, however, that (i) a copy of each such sublease shall be furnished to the Lessor prior to its effective date, (ii) the Lessee shall remain primarily liable for all payments due and obligations to be fulfilled hereunder and (iii) each such sublease shall contain words to the following effect: "The rights of the sublessee under this sublease are subordinate and junior to the rights and remedies of Chemical Bank (the 'Lessor') under a Lease of Railroad Equipment (the 'Lease') dated as of April 1, 1980, between Peavey Company and the Lessor and to the rights of La Salle National Bank under the Conditional Sale Agreement referred to in the Lease"; provided further, however, that the Lessee shall not sublease or permit the use of any Unit predominantly outside the United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease to, or permit the use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may sublease the Units for a longer period of time with the consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units.

15.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of

Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease and provided that the net worth of such surviving entity will not be less than the net worth of the Lessee prior to such transaction.

§ 16. RENEWAL OPTION

16.1. Renewal Option. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of any Unit pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc. ("TFS"), pursuant to which the Lessor will grant to TFS the option to lease all but not less than all of the Units then subject to this Lease for one five-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if TFS shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee may, by written notice delivered to the Lessor not less than 180 days nor more than 270 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years or such other time acceptable to both the Lessee and Lessor commencing on the scheduled expiration of such original term of this Lease, at Fair Market Rental (as defined in § 16.2 hereof) payable, in arrears, in monthly payments on the day such rentals were payable for the Units in each year of such original term. In the event of any such renewal, the Casualty Value payable in respect of a Casualty Occurrence involving any Unit shall be as set forth in Appendix B hereto.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for the extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would be obtained in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such

determination, costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, either party to such determination may give written notice to the other requesting determination of such value by an appraisal procedure and the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof. The expenses of the appraisal procedure shall be borne by the Lessee.

§ 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 30 days thereafter, the Lessee will, at its own cost and expense, at

the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may reasonably designate (such storage tracks to be located in one of the following states: Illinois, Iowa, Minnesota, Montana, Nebraska, North Dakota or South Dakota), or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such unit and transport the same upon disposition of the Units, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect for railroad interchange under the Applicable Laws and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in § 11 hereof and have removed therefrom any such device not so considered an accession or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor at no cost or expense to the Lessor. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. If any Unit is not so delivered in the condition required to be delivered under this § 17 within 30 days after the expiration of this Lease or any renewal hereof, the Lessee shall pay to the Lessor for each day thereafter until such Unit is so

delivered an additional amount equal to the higher of the daily interchange rate for that interchange or 0.030673% of the Vendee Purchase Price of such Unit per day.

§ 18. FILING

The Lessee, at its own expense, will cause this Lease, the CSA, the CSA Assignment and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing required of the Lessor under the CSA. The Lessee in addition will from time to time do and perform any other act and will execute, acknowledge, deliver and file (and will refile whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA, the CSA Assignment and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSA, the CSA Assignment and the Lease Assignment shall be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Unit.

§ 19. INTEREST ON OVERDUE RENTALS

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at the higher of 11.6% per annum or 2% above the prime rate of Chemical Bank from time to time in effect on the overdue rentals and other obligations for the period of time during which they are overdue, or such lesser amount as may be legally enforceable.

§ 20. LESSOR'S RIGHT TO PERFORM FOR LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon

notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the higher of 11.6% per annum or 2% above the prime rate of Chemical Bank from time to time in effect shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder.

§ 21. NOTICES

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

(a) if to the Lessor, at Suite 1822, 55 Water Street, New York, New York 10087, attention of Manager, Specialized Leasing Group, with a copy to Richard H. Gilden, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022;

(b) if to the Lessee, at 730 Second Avenue South, Minneapolis, Minnesota 55402, attention of Legal Department,

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department.

§ 22. SEVERABILITY

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

§ 23. EFFECT AND MODIFICATION OF LEASE

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

§ 24. THIRD-PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Vendor, any builder and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

§ 25. EXECUTION

This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

§ 26. GOVERNING LAW

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Minnesota, except that the rights and obligations of the parties under § 30 hereof shall be governed by the laws of the State of New York; and provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. IMMUNITIES; NO RECOURSE

No recourse shall be had in respect of any obligation due under this Lease, 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 Lease.

§ 28. AGREEMENTS FOR BENEFIT OF
LESSOR'S ASSIGNS

All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns, including the Vendor.

§ 29. TERM LESSOR

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor including, so long as any CSA Indebtedness under the CSA or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor.

§ 30. TAXES

30.1. Tax Assumptions. It is the intent of the Lessor and Lessee that this Lease will be recognized as a lease for all Federal, state, city and local taxes based on or measured by the income of the Lessor and that this Lease does not convey to the Lessee any right, title or interest in the Units except as lessee and that for United States income tax purposes (and to the extent applicable for state and local tax purposes) the Lessor will be treated as the beneficial owner of the Units purchased by it and shall be entitled to such deductions and other benefits (other than the investment tax credit attributable to the Equipment) as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (the "Code"), to an owner of new property including (without limitation) (a) the depreciation deduction with respect to the Units employing a useful life of 12 years

pursuant to the Asset Depreciation Range, Asset Guideline Class 00.25 based on an amount at least equal to the Vendee Purchase Price of the Units to the Lessor employing the double declining balance method, changing when most beneficial to the Lessor to the sum-of-the-years-digits method, and a salvage value of zero (the "Depreciation Deduction") and (b) deductions with respect to interest payable in connection with the CSA Indebtedness incurred under the CSA pursuant to section 163 of the Code (the "Interest Deduction"). Nothing herein shall preclude the Lessor from claiming any deductions or other benefits (other than the investment tax credit attributable to the Equipment) as provided in the Code in a manner other than as set forth in this § 30.1; provided, however, that the Lessee's obligations under this section shall in all cases be based solely on the assumptions with respect to the Depreciation Deduction and Interest Deduction set forth in this § 30.1.

30.2. Agreements and Representations. The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing or which would increase the amount of rentals required to be taken into income by the Lessor over the amount specified to be payable under this Lease on the dates due hereunder, except as specifically provided in this Lease, and that each of such corporations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof. The Lessee agrees to keep and make available for inspection and copying by the Lessor such records as will enable the Lessor to determine the extent to which it is entitled to the benefit of the Depreciation Deduction with respect to the Units.

The Lessee represents, covenants and warrants that (i) at the time the Lessor becomes the owner for tax purposes of any Units, such Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of section 167(c)(2) of the Code from commencing with the Lessor; (ii) the Lessor will be entitled to treat each item of income and deduction arising out of or with respect to the acquisition and lease of the Equipment as derived from sources within the United States of America, (iii) none of the Units will be "used predominantly outside the

United States" within the meaning of Section 48(a)(2) of the Code during any calendar year; (iv) the Lessee will maintain sufficient records to verify the use set forth in the foregoing clauses (i), (ii) and (iii), which records will be retained for at least six years (or such longer period as is reasonably requested by Lessor) and be furnished to the Lessor as soon as possible, but in any event, within 30 days after receipt of a written demand therefor; (v) all of the Units constitute property the basis (i.e., the Vendee Purchase Price) of which qualifies for the Depreciation Deduction and during the term of the Lease all Units will constitute such property; (vi) the Equipment will be "placed in service" prior to December 31, 1980; and (vii) it is the belief of the Lessee that the independent appraisal delivered to the Lessor in connection with the acquisition of the Equipment is reasonable and the facts and assumptions contained therein are correct.

The Lessor agrees that it will execute and deliver to the Lessee an appropriate statement prepared by the Lessee containing the information prescribed by Treas. Reg. § 1.48-4(f) or (g) on or before the due date of the Lessee's Federal income tax return for its taxable year ended July 31, 1980.

30.3. Indemnification. (a) If by reason of any act, omission or misrepresentation of the Lessee (including but not limited to the inaccuracy in law or in fact of the representations, warranties and covenants set forth in § 30.2 hereof or the failure of the Lessee to furnish the notice to the Lessor contemplated by § 30.9 hereof or any inaccuracy in such notice) or due to a change in the Code or Regulations occurring on or prior to the date of acceptance of any of the Units under the Lease or a change in the Code or Regulations which shall become effective on or prior to such date, the Lessor shall not be entitled to, or shall lose, or shall not have, or shall lose the right to claim, or shall suffer a disallowance of, or shall be required to recapture all or any portion of, the Depreciation Deduction or the Interest Deduction with respect to all or part of any Unit or the Lessor shall not be entitled to treat each item of income and deduction as being derived from sources within the United States (any such loss, disallowance, recapture or treatment called the "Loss"), then, the Lessee shall, beginning with the next succeeding rental payment date after written notice is given to the Lessee by the Lessor of such fact, and on

each succeeding rental payment date, pay to the Lessor, pursuant to this section, such amount or amounts as shall, in the reasonable opinion of Lessor, cause the net after tax rate of return and net after tax cash flow of the Lessor to at least equal the net after tax rate of return and net after tax cash flow that would have been realized by the Lessor if such Loss had not occurred (which it is understood includes giving effect to any Federal, state or local taxes based on or measured by the income of the Lessor required to be paid by Lessor with respect to the receipt of payments made by the Lessee to the Lessor pursuant to the operation of this paragraph) and the Lessee shall forthwith pay to the Lessor the amount which, when reduced by any increase in the Lessor's tax liability or liabilities resulting from the Lessor's receipt of such amount will equal the amount of any interest, additions to tax and/or penalties which may be assessed by the United States of America or any state or local taxing authority against Lessor attributable to such Loss.

For the calculation of the net after tax rate of return and net after tax cash flow to the Lessor, a combined Federal, state and local income tax rate of 59.05% and a discount rate of 14% shall be assumed.

(b) Payment shall not be required to be made by the Lessee to the extent that the Lessor shall have suffered such Loss with respect to all or part of such Unit solely as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit if the Lessee shall have paid to the Lessor the amounts stipulated under § 7 hereof;

(ii) a voluntary transfer or other voluntary disposition by the Lessor of any interest in such Unit unless an Event of Default shall have occurred and be continuing hereunder;

(iii) the failure of the Lessor to claim in a timely or proper manner the Depreciation Deduction or the Interest Deduction, unless the Lessor shall have received an opinion of an independent tax counsel reasonably satisfactory to the Lessee to the effect that the Lessor is not entitled to claim the Depreciation Deduction or the Interest Deduction; or

(iv) a change in the Code enacted after the delivery of the Units.

30.4. Change in Law. If the deductions or other benefits to which the Lessor is entitled are increased or decreased by a change in law (other than a change in income tax rates) that is effective prior to the acceptance of the Units by the Lessor which are affected by the change, the rental and Casualty Value hereunder shall be reasonably adjusted by the Lessor so that the net after tax rate of return and net after tax cash flow of the Lessor shall not be increased or decreased by reason of such change; provided, however, that any decreases of the rental or Casualty Value pursuant to this section shall not cause such items to be less than the amounts required to satisfy the CSA Indebtedness and any interest thereon.

30.5. Change in Casualty Values. In the event that increased rental payments are required of the Lessee under this Section, the Casualty Values shall be increased or decreased accordingly for the purposes of this section and, upon the subsequent occurrence of a Casualty Occurrence, the Lessee shall pay under this Section any increase or decrease in such Casualty Values, as the case may be, at the same time as the payment of Casualty Value is due to be paid to the Lessor by the Lessee under this Lease as a result of such Casualty Occurrence; provided that in no event shall such Casualty Values be reduced below the amount required to be paid by the Lessor under the CSA in the event of a Casualty Occurrence.

30.6. Tax Claim. If a claim shall be made by the Internal Revenue Service (the "Service"), with respect to the income tax liability of the Lessor attributable to its investment in the Units which, if successful, would lead to increased rental payments by the Lessee hereunder, the Lessor shall give prompt notice of such claim to the Lessee and the Lessor shall take such action to contest such claim as the Lessee shall reasonably request in writing from time to time, provided that within 8 days after Lessee's actual receipt of said notice by the Lessor of such proposed adjustment the Lessee shall request that such adjustment be contested; and further provided that an Event of Default shall not be continuing hereunder and the Lessee shall not have failed to make any payments when due under this Section. For purposes of this Section, "prompt notice" shall mean written notice to the Lessee by the later to occur of (a) 15 days after receipt

of such notice by Lessor from the Service or (b) such time as would permit a contest of any claim made by the Service. The Lessor may, in its discretion, forego any administrative appeal with the Service in respect of such claim and may, at its option, either pay the tax claimed and sue for refund in the appropriate United States District Court or in the United States Court of Claims, as it may elect, or contest such claim in the United States Tax Court, considering, however, in good faith such request as the Lessee may make concerning the most appropriate forum in which to proceed; provided, however, that the final decision as to selection of the forum shall be solely that of the Lessor. If the Lessor pays the tax claimed and sues for refund, payments by the Lessee shall be required so as to maintain the net after tax rate of return and net after tax cash flow of the Lessor in the manner and to the extent provided in this section, and, in addition to its obligations under § 30.3 hereof, the Lessee shall forthwith pay to the Lessor the amount which, when reduced by any increase in the Lessor's tax liability or liabilities resulting from the Lessor's receipt of such amount, will equal the amount of any interest, additions to tax and/or penalty assessed against the Lessor with respect to such additional income tax. If the Lessor receives a refund as a result of contesting such claim and the rental under the Lease shall have previously been adjusted or any payment shall previously have been made by the Lessee as a result of the Loss which was the subject of such contest, the Lessor shall forthwith pay to the Lessee any interest on the refund paid by the taxing jurisdiction net of any tax detriment to the Lessor attributable to the receipt of such interest together with the appropriate amount with respect to any interest and/or penalty payments which should not have been assessed against and paid by the Lessee to the Lessor pursuant to the preceding sentence, and the payments of the Lessee with respect to such claim shall, beginning with the next rental payment due after receipt by the Lessor of such refund, be decreased to such amount or amounts as shall, in the reasonable opinion of the Lessor, cause the net after tax rate of return and net after tax cash flow of the Lessor over the term of the Lease to at least equal the net after tax rate of return and net after tax cash flow that would have been realized by the Lessor if additional income taxes of the Lessor in the amount refunded had not been paid, but in no event shall such rentals be reduced below the amounts required to satisfy the obligations of the Lessor under the CSA. Any such contest shall be at the sole expense of the Lessee and the Lessee agrees to pay to the Lessor on demand

any reasonable expense attributable to the contest with respect to the Equipment to be incurred by the Lessor in connection with such contest; and the Lessor shall have no obligation to continue such contest in the event the Lessee fails to make such payment within 10 days after actual receipt of written demand.

30.7. Survival. The agreements to pay any sums which may become payable pursuant to this section shall survive the expiration or other termination of this Lease or the Lessee's interest herein; and the Lessee's obligations hereunder shall be assumed by the assignee if this Lease shall be assigned by the Lessee as provided in Section 15.2 hereof.

30.8. Capital Expenditures. In the event and to the extent that the cost of any improvements and/or additions ("Capital Expenditures") to a Unit made by the Lessee, under and pursuant to the terms hereof or otherwise, is required to be included in the gross income of the Lessor for purposes of Federal, state or local taxes based on or measured by the income of the Lessor at any time prior to the time such Unit is disposed of in a taxable transaction, then the Lessee shall, beginning with the next succeeding rental payment date after the date on which the Lessee is required to furnish written notice thereof to the Lessor pursuant to § 30.9 hereof after said inclusion in the gross income of the Lessor is required, and on each succeeding rental payment date, pay to the Lessor such amount or amounts as shall, in the reasonable opinion of the Lessor, cause the net after tax rate of return and net after tax cash flow of the Lessor to at least equal the net after tax rate of return and net after tax cash flow that would have been realized by it if the cost of such Capital Expenditures had not been includible in its gross income, provided that the Lessee shall not be required to make any such payments unless the Lessor agrees in writing to contest such inclusion if requested in writing by the Lessee and as provided in §§ 30.6 and 30.10 hereof.

For the purposes of this section the cost of Capital Expenditures made by the Lessee shall be deemed to be "required to be included in the gross income of the Lessor for Federal, state or local income tax purposes" if such inclusion is required by any provision of the Code, any applicable regulations enacted or adopted thereunder, any published revenue ruling of the Service which has not been

held invalid by a court having appellate jurisdiction over the Federal income tax liability of the Lessor in a decision which has become final, or an assessment or proposed adjustment by the Service with respect to such amounts.

The Lessee agrees to make a payment to the Lessor for any interest, additions to tax and/or penalties resulting from the failure to include the cost of Capital Expenditures in its income tax return, such payment to be made upon demand in an amount, when reduced by any increase in the Lessor's tax liability resulting from Lessor's receipt of such payment, sufficient to restore the Lessor to the same position it would have been in had such interest, additions to tax and/or penalties not been imposed; and such amount shall be determined in the reasonable opinion of the Lessor.

30.9. Notices of Capital Expenditures. The Lessee agrees that, within 30 days after the close of Lessor's fiscal year in which the Lessee has made Capital Expenditures which are of a type or which the Lessee believes are of a type, or are of a type which the Lessee has been advised by the Lessor may be of a type, required to be included in the gross income of the Lessor for Federal, state or local income tax purposes prior to the time such Unit is disposed of in a taxable transaction, the Lessee will give written notice thereof to the Lessor describing such Capital Expenditures in reasonable detail and specifying the cost thereof with respect to each Unit.

30.10. Contest by Lessor. Notwithstanding any provision in this Section to the contrary, the Lessor shall not be required to contest in a judicial proceeding any disallowance or proposed disallowance by the Service with respect to the Depreciation Deduction or the Interest Deduction of the Lessor or the includibility of the cost of any Capital Expenditure in the gross income of the Lessor unless the Lessor shall have received an opinion from independent tax counsel selected by Lessee and accepted by the Lessor that there is a reasonable basis for contesting such liability, inclusion or other matters.

30.11. Penalty Interest. Notwithstanding any provision herein to the contrary, any nonpayment of any obligation under this Section when due shall result in the additional obligation on the part of the obligor promptly to pay, to the extent legally enforceable, an amount equal to interest at the higher of 11.6% per annum or 2% above

the prime rate of Chemical Bank from time to time in effect on the amount of the obligation overdue for the period of time during which the obligation is overdue.

30.12. Disagreement by Parties. In the event of disagreement between the parties as to the amount of any payment due under this Section, the parties agree to submit the calculation of such payments to one of the eight largest public accounting firms in the United States of America, chosen by mutual agreement, or to Price Waterhouse & Co., and such firm shall perform the calculation which will be binding on both parties. Costs incurred by either party in respect to such submission shall be borne equally by the Lessor and the Lessee.

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

PEAVEY COMPANY,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

CHEMICAL BANK,

by

Vice President

[Corporate Seal]

Attest:

Burt L. Resnik

Assistant Secretary

APPENDIX A TO THE LEASE

Units Leased

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100-Ton 4,750- cubic foot Covered Hopper Cars	LO	1072	Butler, Pennsylvania	150	PVGX 1200- PVGX 1349	\$47,790 940	\$7,168,500 7,191,000	May- June 1980 at Butler, Pennsylvania
100-Ton 4,750- cubic foot Covered Hopper Cars	LO	HC-100 47-187-A	Chicago Heights, Illinois	25	PVGX 1350- PVGX 1374	47,940	1,198,500	May- June 1980 at Hager, Wisconsin
100-Ton 4,750- cubic foot Covered Hopper Cars	LO	HC-100 47-187-A	Chicago Heights, Illinois	125	PVGX 2000- PVGX 2124	47,940	5,992,500	May- June 1980 at West Burlington, Wisconsin

APPENDIX B TO THE LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>	<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>
10/80	108.4329	1/84	108.2029
11/80	108.6169	2/84	108.0149
12/80	108.8009	3/84	107.8249
1/81	108.9869	4/84	107.6329
2/81	109.1729	5/84	107.4419
3/81	109.3599	6/84	107.1949
4/81	109.5469	7/84	106.9729
5/81	108.4089	8/84	106.7559
6/81	108.5979	9/84	106.5169
7/81	108.7869	10/84	106.2759
8/81	108.9439	11/84	106.0199
9/81	109.0839	12/84	106.3079
10/81	109.2249	1/85	105.5009
11/81	109.3149	2/85	105.2169
12/81	109.4049	3/85	104.9309
1/82	109.4959	4/85	104.6419
2/82	109.5689	5/85	104.3299
3/82	109.6419	6/85	104.0149
4/82	109.7159	7/85	103.6979
5/82	109.7719	8/85	103.3849
6/82	109.8279	9/85	103.0539
7/82	109.8839	10/85	102.7189
8/82	109.9129	11/85	102.3739
9/82	109.9129	12/85	102.0249
10/82	109.9119	1/86	101.6729
11/82	109.8549	2/86	101.3019
12/82	109.7959	3/86	100.9269
1/83	109.7369	4/86	100.5489
2/83	109.6469	5/86	100.1519
3/83	109.5549	6/86	99.7509
4/83	109.4629	7/86	99.3459
5/83	109.3389	8/86	98.9459
6/83	109.2129	9/86	98.5309
7/83	109.0869	10/86	98.1119
8/83	108.9699	11/86	97.6859
9/83	108.8269	12/86	97.2549
10/83	108.6829	1/87	96.8209
11/83	108.5249	2/87	96.3729
12/83	108.3649	3/87	95.9209

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>	<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>
4/87	95.4649	1/91	70.1479
5/87	94.9999	2/91	69.5039
6/87	94.5309	3/91	68.8549
7/87	94.0579	4/91	68.1999
8/87	93.5849	5/91	67.5449
9/87	93.1039	6/91	66.8839
10/87	92.6189	7/91	66.2169
11/87	92.1299	8/91	65.5539
12/87	91.6369	9/91	64.8969
1/88	91.1389	10/91	64.2329
2/88	90.6349	11/91	63.5839
3/88	90.1259	12/91	62.9299
4/88	89.6119	1/92	62.2689
5/88	89.0909	2/92	61.6139
6/88	88.5659	3/92	60.9529
7/88	88.0359	4/92	60.2849
8/88	87.5049	5/92	59.6229
9/88	86.9679	6/92	58.9549
10/88	86.4259	7/92	58.2799
11/88	85.8809	8/92	57.6099
12/88	85.3319	9/92	56.9489
1/89	84.7779	10/92	56.2829
2/89	84.2179	11/92	55.6369
3/89	83.6529	12/92	54.9849
4/89	83.0829	1/93	54.3269
5/89	82.5069	2/93	53.6789
6/89	81.9259	3/93	53.0239
7/89	81.3399	4/93	52.3639
8/89	80.7519	5/93	51.7139
9/89	80.1599	6/93	51.0569
10/89	79.5619	7/93	50.3949
11/89	78.9629	8/93	49.7359
12/89	78.3579	9/93	49.0939
1/90	77.7489	10/93	48.4449
2/90	77.1339	11/93	47.8219
3/90	76.5139	12/93	47.1929
4/90	75.8889	1/94	46.5509
5/90	75.2589	2/94	45.9179
6/90	74.6229	3/94	45.2709
7/90	73.9809	4/94	44.6119
8/90	73.3429	5/94	43.9599
9/90	72.7059	6/94	43.2959
10/90	72.0629	7/94	42.6179
11/90	71.4309	8/94	41.9349
12/90	70.7919	9/94	41.2639

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>	<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price</u>
10/94	40.5799	1/98	28.5919
11/94	39.9149	2/98	28.4239
12/94	39.2379	3/98	28.2639
1/95	38.5469	4/98	28.0939
2/95	37.8679	5/98	27.9289
3/95	37.1759	6/98	27.7589
4/95	36.4699	7/98	27.5849
5/95	35.7769	8/98	27.4069
6/95	35.5309	9/98	27.2329
7/95	35.2859	10/98	27.0549
8/95	35.0399	11/98	26.8819
9/95	34.7939	12/98	26.7049
10/95	34.5479	1/99	26.5229
11/95	34.3029	2/99	26.3459
12/95	34.0569	3/99	26.1639
1/96	33.8109	4/99	25.9789
2/96	33.5649	5/99	25.6749
3/96	33.3199	6/99	25.5529
4/96	33.0739	7/99	25.4299
5/96	32.8279	8/99	25.3079
6/96	32.5819	9/99	25.1849
7/96	32.3369	10/99	25.0619
8/96	32.0909	11/99	24.9399
9/96	31.8449	12/99	24.8169
10/96	31.5989	1/00	24.6949
11/96	31.3539	2/00	24.5719
12/96	31.1079	3/00	24.4489
1/97	30.8619	4/00	24.3269
2/97	30.6159	5/00	24.2039
3/97	30.3709	6/00	24.0809
4/97	30.1249	7/00	23.9589
5/97	29.7609	8/00	23.8359
6/97	29.6389	9/00	23.7139
7/97	29.5129	10/00	23.5909
8/97	29.3659		
9/97	29.2249		
10/97	29.0789		
11/97	28.9209		
12/97	28.7579		