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ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

LAW OFFICES  
ALVORD AND ALVORD

200 WORLD CENTER BUILDING  
918 SIXTEENTH STREET, N.W.  
WASHINGTON, D. C.  
20006

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RECORDATION NO. 13036 Filed 1981

April 1, 1981 APR 2 1981 -9 45 AM

CABLE ADDRESS  
"ALVORD"

TELEPHONE  
AREA CODE 202  
393-2266

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RECORDATION NO. 13036 Filed 1981

INTERSTATE COMMERCE COMMISSION

APR 2 1981 -9 45 AM  
INTERSTATE COMMERCE COMMISSION

No. 1-0924018

Date... APR 2 1981

Fee \$.. 50.00

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

ICC Washington, D. C.

RECEIVED  
APR 2 9 37 AM '81  
I.C.C.  
FEE OPERATION

Dear Madam:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11303(a) and the regulations thereunder are counterparts each of a Lease of Railroad Equipment dated as of March 1, 1981 and an Assignment of Lease and Agreement dated as of March 1, 1981 ("Documents").

A general description of the railroad equipment covered by the Documents is:

One hundred twenty-six (126) 4,000 cubic foot capacity 100-ton rotary dump railroad coal cars bearing reporting mark and numbers RECX 2001 through RECX 2124, both inclusive, RECX 1001 and RECX 1002.

The names and addresses of the parties to the Documents are:

Lessor/Assignor: Wilmington Trust Company, as  
Owner, Trustee  
10th and Market Street  
Wilmington, Delaware 19899

Lessee: Central Louisiana Electric Company,  
Inc.  
415 Main Street  
Pineville, Louisiana 71360

*Handwritten signature: C.T. Kappler*

Ms. Agatha L. Mergenovich  
April 1, 1981  
Page Two

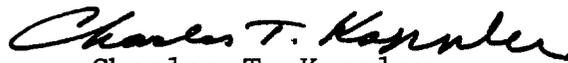
Assignee:                   The Connecticut Bank and Trust  
                                  Company, as Agent  
                                  One Constitution Plaza  
                                  Hartford, Connecticut   06115

The undersigned is agent for the Assignee for the purpose of submitting the Documents for recordation and has knowledge of the matters set forth therein.

Please return the stamped counterparts of the Documents not needed for your files to Charles T. Kappler, Esq., Alvord and Alvord, 918 16th Street, N.W., Suite 200, Washington, D.C. 20006 or to the bearer hereof.

Also enclosed is a remittance in the amount of \$50.00 in payment of the required recordation fee.

Very truly yours,

  
Charles T. Kappler

Enclosures

\*\*\*\*\*

LEASE OF RAILROAD EQUIPMENT

Dated as of March 1, 1981

between

WILMINGTON TRUST COMPANY, as Owner Trustee,  
Lessor

and

CENTRAL LOUISIANA ELECTRIC COMPANY, INC.,  
Lessee

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LEASE OF RAILROAD EQUIPMENT, dated as of March 1, 1981, between WILMINGTON TRUST COMPANY, not individually but solely as trustee (the "Lessor") under the Trust Agreement, dated as of March 1, 1981, with Manufacturers Hanover Leasing Corporation, and CENTRAL LOUISIANA ELECTRIC COMPANY, INC., a Louisiana corporation (the "Lessee").

SECTION 1. DEFINITIONS.

For all purposes of this Lease, the following terms shall have the following meanings:

Additional Rent: as defined in Section 3.2.

Additions: as defined in Section 9.4.

Agent: The Connecticut Bank and Trust Company, a Connecticut banking corporation, in its capacity as agent under the Participation Agreement, and its successors as agent thereunder.

Aggregate Purchase Price: as defined in the Conditional Sale Agreement.

Appraisal Procedure: the following procedure for determining the Fair Market Sales Value and/or the Fair Market Rental Value of any Unit or Units for purposes of this Lease: if either party hereto shall have given written notice to the other requesting a determination of such value by the Appraisal Procedure hereunder, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 10 Business Days after such notice is given, each party shall appoint an independent appraiser within 20 Business Days after such notice is given and the two appraisers so appointed shall within 30 Business Days after such notice is given appoint a third independent appraiser; but if either party shall fail to appoint an independent appraiser within such 20-Business Day period the independent appraiser appointed by the other party within such period shall be deemed to have been appointed by mutual agreement for the purposes of the immediately preceding sentence. If no such third appraiser is appointed within 30 Business Days after such notice is given, either party may request the American Arbitration Association to appoint such an appraiser within 20 Business Days after such request is made, and both parties shall be bound by any appointment so made within such 20-Business Day period. If no such appraiser is appointed within 20

Business Days of such request to the American Arbitration Association or within 40 Business Days after the original notice requesting a determination pursuant to the Appraisal Procedure, whichever is earlier, either party may apply to any court having jurisdiction to make such appointment, and both parties shall be bound by any appointment made by such court. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Sales Value and/or the Fair Market Rental Value (as appropriate) of such Unit or Units within 30 Business Days after his or their appointment. If the parties shall have appointed a single appraiser, such appraiser's determination shall be final. If three appraisers shall be appointed, their determination shall be averaged, the determination which differs most from such average shall be excluded, the remaining two determinations shall be averaged and such average shall be final. All costs and fees of appraisers in making any such determination shall be paid by Lessee.

Assignment: the Assignment of Conditional Sale Indebtedness, dated as of the date hereof, among the Manufacturer, the Agent and the Lessor, as Buyer thereunder, providing for the assignment by the Manufacturer to the Agent of its right, title and interest in and to the Conditional Sale Indebtedness and the Conditional Sale Agreement, and including therein the Lessor's consent to such assignment, as from time to time amended, modified or supplemented in accordance with its terms.

Basic Agreements: this Lease, the Participation Agreement, the Conditional Sale Agreement, the Assignment, the Manufacturer's Consent, the Lease Assignment, the Consent, the Purchase Agreement Assignment and the Trust Agreement. The Basic Agreements to which any person referred to herein is a signatory are hereinafter called its "Basic Agreements".

Basic Rent: as defined in Section 3.1.

Business Day: any day other than a Saturday, a Sunday or any other day on which banking institutions in Connecticut, Delaware, Louisiana or New York are required or authorized by law to be closed.

Calculation Date: as defined in Section 7.1.

Casualty Occurrence: as defined in Section 7.1.

Casualty Value: as defined in Section 7.1.

Certificate of Acceptance: a certificate delivered, pursuant to Section 2, by a representative of the Lessor who is an employee of the Lessee upon delivery by the Manufacturer and acceptance by the Lessee of units of the Equipment, which certificate shall also serve to confirm that the conditions set forth in sub-paragraphs (a), (c) and (d) of Section 3.1 of the Conditional Sale Agreement have been complied with to the satisfaction of the Lessor and that the units of the Equipment have been inspected and accepted on behalf of the Lessor for all purposes of the Conditional Sale Agreement.

Closing Date: the date of the closing of the delivery of the Equipment under the Conditional Sale Agreement and of the related transactions contemplated by Section 2 of the Participation Agreement.

Code: the Internal Revenue Code of 1954, as amended from time to time.

Conditional Sale Agreement: the Conditional Sale Agreement, dated as of the date hereof, between the Manufacturer and the Lessor, as Buyer thereunder, providing for the sale of the Equipment to the Lessor by the Manufacturer, as from time to time amended, modified or supplemented in accordance with its terms.

Conditional Sale Indebtedness: as defined in Section 4.1 of the Conditional Sale Agreement.

Declaration of Default: as defined in Section 17 of the Conditional Sale Agreement.

Equipment: the 126 units of railroad equipment set forth in Schedule A hereto, or such portion thereof as is delivered and accepted under the terms of the Conditional Sale Agreement and this Lease, together with all additions, modifications or improvements thereto or replacements thereof as contemplated by Section 2.

Event of Default: as defined in Section 17.

Excepted Payments: as defined in Section 1 of the Lease Assignment.

Fair Market Rental Value or Fair Market Sales Value: with respect to a Unit shall be determined for purposes of Sections 7.3, 14 and 15 (including for purposes of determining Termination Value and Casualty Value for any renewal period), as of the time or times herein specified, on the basis of, and shall be equal in amount to, the Fair Market Rental Value or the Fair Market Sales Value of such Unit mutually determined by the Lessor and the Lessee, or as determined by the Appraisal Procedure, to be the value which would be obtained in an arm's-length transaction between an informed and willing lessee-user or buyer-user (other than a lessee currently in possession or a used equipment or scrap dealer) under no compulsion to lease or buy, as the case may be, and an informed and willing lessor or seller, as the case may be, under no compulsion to lease or sell and, in determining Fair Market Rental Value or Fair Market Sales Value, it shall be assumed that the Unit the subject of such appraisal is in the condition required under Section 9.3 and costs of disassembly and transportation of the Units as contemplated by Section 16 shall not be a deduction from value except that, for purposes of Section 7.3, such Unit shall be deemed to be in its actual condition and such costs shall be deducted from value.

Indemnified Persons: as defined in Section 6.1.

Indemnitees: as defined in Section 6.2.

Lease Assignment: the Assignment of Lease and Agreement, dated as of the date hereof, between the Lessor and the Agent, granting to the Agent a security interest in and assigning all the Lessor's right, title and interest in, to and under the Lease and including therein the Consent, as from time to time amended, modified or supplemented in accordance with its terms.

Lender: The Travelers Insurance Company, as Lender under the Participation Agreement, and any successors to its business.

Lenders: the Lender, so long as it has an interest in the Conditional Sale Indebtedness, and any transferee (or subsequent transferee) of all or part of its interest in the Conditional Sale Indebtedness, so long as such transferee has such an interest.

Lessor: Wilmington Trust Company not individually but solely as trustee under the Trust Agreement, and its successors as trustee thereunder.

Lessor's Lien: A Trustee's Lien, or any other Lien on a Unit or any part thereof or any other property constituting part of the Trust Estate which either (i) results from any acts of or claims against the Owner arising out of any event or condition not related or connected to the ownership, leasing, use or operation of the Equipment or any other transaction contemplated by any of the Basic Agreements or (ii) results from an affirmative act of the Owner which is neither (x) consented to in writing by the Lessee nor (y) taken in connection with any default or Event of Default under this Lease nor (z) authorized by or taken pursuant to any of the provisions of the Basic Agreements or any document executed and delivered pursuant thereto.

Lien: any mortgage, pledge, lien, charge, encumbrance, retention of title, security interest or claim.

Majority in Interest of Lenders: Lenders having an interest in excess of 50% of the aggregate principal amount of the Conditional Sale Indebtedness at the time outstanding.

Manufacturer: Thrall Car Manufacturing Company, a Delaware corporation, and its successors and assigns.

Owner: Manufacturers Hanover Leasing Corporation, its successors and permitted assigns under Section 13 of the Participation Agreement.

Part: any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit, as an Addition or otherwise.

Participation Agreement: the Participation Agreement, dated as of the date hereof, among Manufacturers Hanover Leasing Corporation, the Lessor, the Lessee, the Agent, and the Lender, as from time to time amended, modified or supplemented in accordance with its terms.

Permitted Liens: Liens of taxes, assessments or governmental charges or levies, in each case not due and delinquent; inchoate mechanics', materialmen's, repairmen's

or other similar Liens arising in the ordinary course of business and not delinquent; and any Lien created pursuant to or under the Security Documents.

Purchase Price: as defined in Section 2 of the Conditional Sale Agreement.

Rent Payment Date: as defined in Section 3.

Security Documents: the Conditional Sale Agreement, the Assignment and the Lease Assignment.

Taxes: as defined in Section 6.2.

Termination Date: as defined in Section 13.

Termination Value: as defined in Section 13.

Trust Estate: as defined in the Trust Agreement.

Trust Agreement: the Trust Agreement, dated as of the date hereof, between the Owner and Wilmington Trust Company, as it may from time to time be amended, modified or supplemented in accordance with the terms thereof and hereof.

Trustee's Lien: as defined in the Trust Agreement.

Unit: a unit of the Equipment.

All capitalized terms used in this Agreement without other definition shall have the meaning assigned in the Participation Agreement.

## SECTION 2. LEASE AND DELIVERY OF EQUIPMENT.

The Lessor agrees to lease to the Lessee on the terms and conditions set forth herein each Unit delivered to and accepted by the Lessor under the Conditional Sale Agreement. The Lessor shall deliver or cause to be delivered each such Unit to be subjected to this Lease at

the place within the United States of America at which such Unit is delivered to the Lessor under the Conditional Sale Agreement. Upon such delivery of a Unit under the Conditional Sale Agreement, the Lessee will cause an authorized representative or representatives of the Lessee to inspect such Unit and, if such Unit is found to be in good order and in conformity with the specifications and requirements set forth in the Purchase Agreement, and marked in accordance with the provisions of Section 5 of this Lease, and if the conditions set forth in subparagraphs (a), (c) and (d) of Section 3.1 of the Conditional Sale Agreement have been complied with to the satisfaction of the Lessor, to accept delivery of such Unit on behalf of the Lessee and to execute and deliver a Certificate of Acceptance with respect thereto, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessor under the Conditional Sale Agreement and to have been delivered to and accepted by the Lessee under this Lease, and such Unit shall thereafter be subject to all of the terms and conditions of this Lease. Each such Unit not so delivered to and accepted by the Lessor under the Conditional Sale Agreement and by the Lessee hereunder shall be excluded from this Lease and shall be excluded from the terms "Unit" and "Equipment" for all purposes of this Lease.

This Lease shall extend to any and all additions, modifications or improvements to the Equipment which become the property of the Lessor pursuant to this Lease and any and all replacements of the Equipment or any part thereof shall constitute accessions to the Equipment, shall be subject to all terms and conditions of this Lease, and shall be included in the term "Equipment" as used in this Lease; provided that this Lease shall not extend to any coal cars purchased pursuant to the Purchase Agreement which are not listed in Schedule A.

### SECTION 3. RENTALS.

3.1. Basic Rent. The Lessee will pay to the Lessor rental for each Unit in 37 consecutive semiannual installments ("Basic Rent"), payable on October 1, 1981, and on each October 1 and April 1 thereafter, to and including October 1, 1999 (each such date being hereinafter referred to as a "Rent Payment Date"). The first such installment shall be in an amount equal to the product of (i) the aggregate Purchase Price of all the Equipment,

(ii)  $14 \frac{3}{4}\%$  and (iii) a fraction, the numerator of which shall be the number of days from the Closing Date to October 1, 1981 (based on a 360-day year of twelve 30-day months) and the denominator of which shall be 360. The remaining 36 installments shall each be in an amount equal to  $5.448447\%$  of the aggregate Purchase Price of the Equipment then subject to the Lease.

The Basic Rent percentage specified in the preceding paragraph and the Casualty Value and Termination Value percentages specified in Schedule B hereto are subject to adjustment from time to time as provided in Section 3.5 and the Lessor and the Lessee shall execute an addendum to this Lease to reflect each such adjustment, provided that the failure to execute and deliver an addendum shall not affect any such adjustment.

3.2. Additional Rent. The Lessee will also pay, from time to time as provided in this Lease or on demand, as additional rent ("Additional Rent"), (a) all other amounts, liabilities and obligations which the Lessee assumes or agrees to pay, (b) interest (to the extent legally enforceable) at the rate of  $15 \frac{3}{4}\%$  per annum on such of the foregoing amounts, liabilities and obligations which are not paid in full when due or on the date of such demand, as the case may be, from such date until payment in full thereof, and (c) interest (to the extent legally enforceable) at the rate of  $15 \frac{3}{4}\%$  per annum on all overdue installments of Basic Rent from the due date thereof until payment. In the event of any failure on the part of the Lessee to pay any Additional Rent, the Lessor or any other person entitled to receive the same shall have all rights, powers and remedies provided for in this Lease or at law or in equity or otherwise in the case of nonpayment of Basic Rent.

3.3. Place of Payment, etc. Subject to Section 23, each payment of Basic Rent or Additional Rent pursuant to Section 3.1 or 3.2 and any other amount payable under this Lease shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, in immediately available funds and by 11:00 a.m., New York time, on the date set forth for such payment in this Lease, at the office of the Lessor referred to in Section 22 (or to such other person as the Lessor may from time to time direct in writing) or, in the case of any payment pursuant to Section 6, directly to the person entitled thereto as

provided therein. If the date on which any such payment is to be made is not a Business Day, such payment shall be made on the next preceding Business Day.

3.4. 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 expressly provided, the Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or set-offs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor, the Owner, the Manufacturer, the Agent, the Lenders or any other person, whether under this Lease or any other Basic Agreement or otherwise, including any rights of Lessee by subrogation hereunder or thereunder against the Lessor, the Owner 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 or defect of title to all or any of the Units from whatsoever cause, any Liens, or rights of others with respect to any of the Units, the taking or requisitioning of 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 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 Agent for any reason whatsoever.

3.5. Adjustment of Basic Rent, Casualty Value and Termination Value. (a) The Basic Rent percentage specified in Section 3.1 and the Casualty Value and Termination Value percentages specified in Schedule B hereto (herein collectively called the "Percentages") are based upon the accuracy of the assumptions set forth in Schedule C hereto. If on the Closing Date any of such assumptions is incorrect, or if any of such assumptions shall become incorrect as the result of an amendment to the Code which is enacted after the Closing Date but on or before December 31, 1981, then the Percentages shall be adjusted (upward or downward, as the case may be, and subject to Section 3.5(d)) to the extent, if any, necessary to provide the Owner with at least the same after-tax yield and periodic recovery of net cash flows that it would have had if such assumptions had been correct at and as of the Closing Date; provided that if the result of such an amendment to the Code is to accelerate the tax deductions attributable to allowances for the depreciation of the Equipment, then the adjustment shall be made only to the extent that the increase in the depreciation deductions during any taxable period may be utilized as a current offset against the tax base allocated to the Owner by Manufacturers Hanover Corporation for such taxable period, as determined by the Owner in its sole discretion, and the adjustment so made to the Percentages solely as a result of such amendment (determined before taking into account the adjustments to be made as a result of any assumptions proving incorrect or as a result of any other amendments to the Code) shall be limited to 66 2/3% of the adjustment that would be made solely as a result of such amendment (as so determined by the Owner with reference to its current utilization of incremental depreciation deductions, as aforesaid) but for this limitation; and provided, further, that if the result of such an amendment to the Code is to increase the allowable investment tax credit to an amount greater than the Investment Credit (as defined in Section 6.3(a) (i)), then the adjustment shall be made only to the extent that the increase in the allowable investment tax credit provides a current benefit to the Owner, as determined by the Owner in its sole discretion.

(b) If the transaction expenses paid by the Owner pursuant to Section 11 of the Participation Agreement shall exceed or be less than 1 1/2% of the Aggregate Purchase Price, then the Percentages shall be adjusted to such respective amounts as shall be necessary to provide the Owner with at least the same after-tax yield and periodic recovery of net cash flows that it would have received had such

transaction expenses been equal to 1 1/2% of the Aggregate Purchase Price.

(c) The amount of any required adjustment provided for under this Section 3.5 shall be determined by the Owner from time to time, with the final adjustment being made no later than 10 Business Days prior to the second Rent Payment Date. As to each adjustment, the Owner shall certify in writing to the Lessee that such adjustment was determined pursuant to, and in compliance with, the requirements of this Section 3.5. Upon request of the Lessee made within a reasonable time following the delivery to the Lessee by the Owner of any such certification, the Owner shall discuss the basis of the adjustment referred to therein with the Lessee or its representative in good faith, provided that, after any such good faith discussions, the final determination made by the Owner shall, subject to the last sentence of this paragraph (c) of this Section 3.5, be conclusive as to all of the parties hereto. The Lessee agrees that it will not have the right to inspect the tax returns or any other document of the Owner in order to confirm the calculations or any determination made by the Owner pursuant to this Section 3.5, provided that upon written request by the Lessee the Owner shall deliver a certificate of a Senior Officer confirming that the adjustments set forth in the written statement to which such request relates have been reviewed for accuracy by the internal auditors for the Owner under the supervision of such Senior Officer and that the conclusions made by the Owner, as set forth in such written statement, are accurate and in conformity with the provisions of this Section 3.5.

(d) No adjustment may be made under this Section 3.5 to the extent that as a result thereof (i) the Casualty Value or the Termination Value payable at any time would be less than the aggregate unpaid principal amount of the Conditional Sale Indebtedness and accrued interest thereon at such time (assuming that at such time there is no existing default in the payment of principal or interest on the Conditional Sale Indebtedness), or (ii) any installment of Basic Rent would be less than the installment of principal and interest on the Conditional Sale Indebtedness which is due and payable on the due date of such installment of Basic Rent, provided that to the extent that a downward adjustment to the Basic Rent percentage specified in Section 3.1, otherwise required pur-

suant to Section 3.5(a), is not made by reason of the limitation specified in clause (ii) of this Section 3.5(d), then the provisions of Section 17.2 of the Participation Agreement shall apply.

#### SECTION 4. TERM OF LEASE.

The term of this Lease shall begin on the Closing Date and, subject to the provisions of Sections 7, 13, 14 and 17.2, the term for all Units shall terminate on September 30, 1999. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, all obligations of the Lessee hereunder shall survive the expiration of the term of this Lease.

#### SECTION 5. IDENTIFICATION MARKS.

The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or, in the case of any Unit not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the following legend: "Owned by a Bank or Trust Company, as Trustee, and Subject to a Security Interest Filed with the Interstate Commerce Commission", or other appropriate words designated by the Agent (or by the Lessor if the security interest in favor of the Agent under the Security Documents shall have been discharged of record), with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested by the Agent (or by the Lessor if the security interest in favor of the Agent under the Security Documents shall have been discharged of record) in order to protect the Lessor's title to and property in, and the Agent's security interest in, such Unit and the rights of the Lessor under this Lease and of the Agent under the Security Documents. The Lessee will not place any Unit in service if such legend is not so marked on both sides thereof and will replace promptly any such legend which may be removed, obliterated, defaced or destroyed. The Lessee will not change or permit to be changed the identifying number of any Unit unless and until

(a) a statement of the new number or numbers to be substituted therefore shall have been filed with the Lessor and the Agent and duly filed, recorded and deposited by the Lessee in all public offices where this Lease or the Security Documents, or any Uniform Commercial Code financing statement or similar instrument relating thereto, shall have been filed, recorded and deposited and (b) the Lessee shall have furnished the Lessor and the Agent an opinion of counsel to the effect that (i) such statement has been so filed, recorded and deposited and such filing, recordation and deposit is sufficient to protect the Lessor's and the Agent's respective interests in such Units or (ii) no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary or advisable to protect the respective interests of the Lessor and the Agent in such Units.

The Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership, except as above provided and except that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or its affiliates, so long as this Lease shall remain in effect, on railroad equipment used by it of the same or a similar type for convenience of identification of the right of the Lessee or its affiliates to use the Equipment as permitted under this Lease.

## SECTION 6. INDEMNITIES.

6.1. General Indemnity. The Lessee shall pay or cause to be paid, and shall protect, indemnify and hold the Lessor and, as third party beneficiaries hereof, the Owner, the Agent and the Lenders and their respective successors, assigns, agents and servants (hereinafter called "Indemnified Persons") harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person, including any or all liabilities, obligations, damages, costs, interests, penalties, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person relating thereto) in any way relating to or arising or alleged to arise out of this Lease or any of the other Basic Agreements or the Equipment, including without limitation those in any way

relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, sublease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (v) any injury to or the death of any person or any damage to or loss of property on or near any Unit or in any manner growing out of or connected with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (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 (except by the Indemnified Person seeking indemnity hereunder), of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the obligations of the Lessor under its Basic Agreements, except to the extent such claim arises from the willful misconduct or gross negligence of the Lessor; (viii) any claim arising out of the exercise of the rights of the Agent under the Security Documents, including, without limitation, all costs and expenses of the Lenders incurred by them pursuant to Section 11.2 of the Participation Agreement in connection with the Lenders' indemnification of the Agent, and advances made by the Lenders to the Agent, with respect to action taken by the Agent under the Participation Agreement, the Security Documents or this Lease; (ix) any claim against the Lessor, the Agent or any of the Lenders for any service, selling, purchase or finder's fee or commission in connection with any Unit; or (x) any claim of the Lessor against the Owner under Section 7.01 of the Trust Agreement. The Lessee shall not be required to indemnify any Indemnified Person under this Section 6.1 (a) in respect of such party's willful misconduct or gross negligence; (b) except as otherwise provided herein or in the Participation Agreement, with respect to the general administrative and overhead expenses incurred by any Indemnified Person in connection with the transactions contemplated hereby; or (c) in respect of any claim for which indemnity is provided in Sections 6.2 and 6.3 or which would be provided except for exceptions to the general

indemnity provisions thereof. All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this Section 6.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this Section 6.1 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 claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's reasonable request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this Section 6.1, the Lessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of any federal, state or local government or governmental subdivision (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 reasonably determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agree to give each other and the Lenders and the Owner promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any indemnities as contained in this Section 6.1 by the Lessee, the Lessee shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given and any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this Section 6.1 shall be paid over to the Lessee for indemnification

payments previously made in respect of such matter; provided that if any Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, then any such payments shall be retained by the Indemnified Person as security for the Lessee's obligations under the Lease and its other Basic Agreements and shall be applied to any of such obligations which remain unpaid until such time as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, is continuing, at which time any of such amounts not so applied shall be paid over to the Lessee.

The Lessee further agrees to indemnify, protect and hold harmless the Indemnified Persons from and against any and all liabilities, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against any of them 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 the Manufacturer or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Manufacturer which infringes or is claimed to infringe on any patent or other right.

The indemnities contained in this Section 6.1 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Section 6.1 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Lessor therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

6.2. General Tax Indemnity. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay or cause to be paid, and on written demand to indemnify and hold the Lessor, the Owner, the Agent and the Lenders (collectively, the "Indemnitees") harmless from, all fees (including, without limitation, documentation, license and registration fees), taxes (including, without limitation, income, gross receipts, franchise, capital stock,

sales, use, value added, property [real or personal, tangible or intangible], and stamp taxes), assessments, fees, levies, imposts, duties, charges or withholdings of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon (except such penalties, fines, or additions to tax or interest, which are the result of the willful misconduct of such Indemnitees), however imposed, whether levied or imposed upon the Lessor, the Owner, the Agent, the Lenders, the Lessee, the Equipment or any Unit, or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes") upon or with respect to: (a) any Unit or any part thereof; (b) the manufacture, purchase, acceptance, rejection, ownership, delivery, non-delivery, transport, maintenance, repair, sale, leasing, possession, use, operation, transfer of title, return, abandonment or other disposition thereof; (c) the rentals, receipts or earnings arising therefrom; (d) any of the Basic Agreements; (e) any payment made pursuant to any Basic Agreement; (f) the property, income or other proceeds received by the Agent under the Security Documents; (g) the creation of the Conditional Sale Indebtedness; or (h) otherwise in connection with any of the transactions contemplated by any Basic Agreement, excluding, however (i) Taxes imposed on or measured solely by the income or excess profits of the Owner or franchise taxes or capital stock taxes which are payable to the United States or to the state or political subdivision thereof in which the Owner has its principal place of business or is incorporated or to any other state or political subdivision thereof where the Owner is subject to income, excess profits, franchise or capital stock taxes, as the case may be, as the result of transactions unrelated to the transactions contemplated in the Participation Agreement, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease the payment of which is specifically provided for elsewhere in this Lease, (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner or any transfer or disposition by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, without the consent of the Lessee, but not excluding Taxes, other than Taxes imposed on or measured

solely by the income of the Owner or franchise taxes or capital stock taxes, if such transfer or disposition is in connection with a Casualty Occurrence or a termination pursuant to Section 13 of this Lease, or an Event of Default shall have occurred and be continuing, (iii) any Taxes imposed on or measured by the income of any of the Lenders or franchise taxes or capital stock taxes which are payable to the United States or to the state or political subdivision thereof in which the Lenders have their principal place of business or are incorporated or to any other state or political subdivision thereof where the Lenders are subject to taxation as the result of transactions unrelated to the transactions contemplated in the Participation Agreement (other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease the payment of which Taxes is specifically provided for in this Lease) and any Taxes imposed on or for the account of any of the Lenders in connection with any transfer of its interest in the Conditional Sale Indebtedness and any ad valorem or asset taxes, imposed on any of the Lenders as a result of ownership of the Conditional Sale Indebtedness, (iv) any Taxes imposed on or measured by any fees received by the Agent or the Owner Trustee for their services under the Security Documents or the Participation Agreement, (v) any Taxes imposed on or measured by any fees received by the Lessor for its services as trustee under the Trust Agreement, and (vi) any Taxes imposed on or for the account of the Owner by any foreign government or any subdivision or taxing authority thereof which are currently utilized by the Owner, in accordance with the terms of the last sentence of this paragraph, as a credit against the United States income tax otherwise payable by the Owner, provided that the Lessee shall not be required to pay any Taxes during the period it may be contesting or causing to be contested the same in the manner provided in this Section 6.2. Without limiting the generality of the foregoing, the Lessee also agrees to pay all Taxes which the Lessor has agreed to pay under Section 8 of the Conditional Sale Agreement. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a Lien upon any Unit, provided that

the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith (after written notice to the Lessor and the Agent) by appropriate legal proceedings if the nonpayment thereof does not, in the opinion of the Lessor, the Owner or the Agent, adversely affect the rights of the Lessor, the Owner or the Agent in or to the Equipment or otherwise under any Basic Agreement and adequate reserves have been provided by the Lessee for the payment of such tax to the extent required by generally accepted accounting principles. For purposes of this paragraph, in determining the order in which the Owner utilizes withholding or other foreign taxes as a credit against the Owner's United States income taxes, the Owner shall be deemed to utilize (i) first, all foreign taxes other than those described in clause (ii) below; provided, however, that such other foreign taxes which are carried back to the taxable year for which a determination is being made pursuant to this sentence shall be deemed utilized after the foreign taxes described in clause (ii) below, and (ii) then, on a pro rata basis, all foreign taxes (including Taxes hereunder) with respect to which the Owner is entitled to obtain indemnification pursuant to an indemnification provision contained in any lease or any participation or other agreement relating to a lease (including this Lease).

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this Section 6.2 shall be an amount sufficient to restore the Indemnitee to the same after-tax position such Indemnitee would have been in had such Taxes not been imposed.

If a written claim is made against any Indemnitee for any Taxes indemnified against under this Section 6.2, such Indemnitee shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such Indemnitee shall, upon receipt of indemnity satisfactory to it for all costs, expenses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest (except such penalties, fines, or additions to tax or interest, which are the result of the willful misconduct of such Indemnitee), and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes. Such Indemnitee shall, in its sole discretion, select the forum for such contest and determine whether any such contest of the validity, applicability or amount of such Taxes shall be by (a) resisting payment thereof if

possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, or cause to be contested, at its own expense, the validity, applicability or amount of such Taxes in the name of such Indemnitee, provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such Indemnitee in any such proceeding or action) without the prior written consent of such Indemnitee, which consent shall not be unreasonably withheld. If such Indemnitee shall determine that any such contest shall be by paying such Taxes and seeking a refund thereof, the Lessee shall pay to such Indemnitee the amount of such Taxes paid by such Indemnitee. If such Indemnitee shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such Indemnitee shall pay to the Lessee the amount of such refund or interest net of expenses; provided that if any Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, then any such payments shall be retained by the Indemnitee as security for Lessee's obligations under the Lease and its other Basic Agreements and shall be applied to any of such obligations which remain unpaid until such time as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, exists, at which time any of such amounts not so applied shall be paid over to Lessee.

In case any report or return is required to be made with respect to any obligation of the Lessee under this Section 6.2 or arising out of this Section 6.2, the Lessee shall make or cause to be made such report or return, or, except in the case of obligations resulting from the second sentence of the first paragraph of this Section 6.2, shall promptly notify or cause to be notified the appropriate Indemnitee of such requirement and if requested in writing by such Indemnitee shall make or cause to be made such report or return in such manner as shall be satisfactory to the appropriate Indemnitee. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

Payments due from the Lessee under this Section 6.2 shall be made directly to the Indemnitee, except to the extent paid to a governmental agency or taxing authority.

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

### 6.3. Special Income Tax Indemnity.

(a) This Lease is being entered into on the assumption that the Owner will realize the full benefit of the following assumptions in computing its Federal, state and local income tax liability.

(i) The Equipment will constitute "new section 38 property" within the meaning of Section 48(b) of the Code, and an investment tax credit will be allowable for Federal income tax purposes in an amount not less than 10% of the Aggregate Purchase Price. (The assumed credit described in this clause (i) is hereinafter called the "Investment Credit.")

(ii) For Federal, state and local income tax purposes, the Owner will be entitled to determine the allowances for depreciation of the Equipment based on (A) use of the double declining-balance method of depreciation, switching to the sum-of-the-years digits method in the year most beneficial to the Owner, (B) election of the class life asset depreciation range system under Treasury Regulation § 1.167 (a)-11 and a 12 year lower limit depreciation life under Guideline Class 00.25, (C) six months of depreciation in the taxable year ended December 31, 1981, based on the election of the half-year convention, (D) the adjusted basis of the Equipment being in an amount not less than the Aggregate Purchase Price, and (E) a salvage value equal initially to 10% of such adjusted basis but reduced to 0% by the election permitted pursuant to Section 167(f) of the Code. (The assumed deductions described in this clause (ii) are hereinafter called the "ADR Deductions.")

(iii) For Federal, state and local income tax purposes, the Owner will be entitled to deduct all amounts paid or accrued as interest on the Conditional

Sale Indebtedness. (The assumed deductions described in this clause (iii) are hereinafter called the "Interest Deductions.")

(iv) For Federal, state and local income tax purposes, the Owner will be entitled to amortize the transaction expenses paid by the Owner pursuant to Section 11 of the Participation Agreement (to the extent not includable in the Owner's adjusted basis for the Equipment for the purpose of calculating the allowance for depreciation of the Equipment) ratably over the initial term of this Lease. (The assumed deductions described in this clause (iv) are hereinafter called the "Amortization Deductions.")

(v) For Federal, state and local income tax purposes, the Owner will not be required to include in its income prior to the end of the initial term of this Lease (unless entitled to an equal deduction therefor in the same taxable year) any part or all of the cost, with respect to the Equipment, of any (A) repairs or maintenance, (B) alterations, modifications, improvements or additions or (C) other expenditures by the Lessee with respect to the Equipment or the negotiation, documentation and execution of the Basic Agreements, whether incurred under and pursuant to the terms of the Basic Agreements or otherwise. (Any amount so included in income is hereinafter called a "Taxable Expenditure.")

The Lessee has therefore agreed to indemnify the Owner as hereinafter provided in this Section 6.3 in the event that such tax benefits are not available to the Owner on and after the Closing Date.

(b) Representations and Warranties. The Lessee represents and warrants that all of its representations and warranties contained in Section 5.19 of the Participation Agreement are true and correct.

(c) Investment Credit. If as a result of any of the circumstances set forth in Section 6.3(e) hereof, (i) the Owner shall not be entitled to any portion or all of the Investment Credit or (ii) the Owner shall lose the full benefit of, or have recaptured, any portion or all of the Investment Credit due to the recomputation of such Investment Credit pursuant to Section 47 of the Code, then the Lessee shall pay the Owner, upon demand, the sum of

(A) the amount of the Investment Credit which the Owner shall have so lost, had recaptured or failed to receive; (B) the amount of any interest (net of any actual decrease in Federal, state or local income taxes caused by any allowable deduction of such interest from taxable income) or penalties, including any additions to tax due to the underpayment of estimated taxes, assessed against the Owner in connection therewith; and (C) the amount of any Federal, state or local income taxes required to be paid by the Owner in respect of the receipt of amounts referred to in clauses (A) and (B) above and this clause (C). If at any subsequent time the Owner receives a refund with respect to any portion or all of the Investment Credit that it previously lost, had recaptured or failed to receive and for which payment has been made to the Owner by the Lessee pursuant to this Section 6.3(c), then promptly after receipt of such refund the Owner shall pay the Lessee the sum of (1) all amounts received by the Owner from the Federal government with respect to such refund allowance, including interest, reduced by all Federal, state or local income taxes required to be paid by the Owner in respect of the receipt thereof, and (2) the amount of any Federal, state or local income taxes saved by the Owner in respect of its payment to the Lessee of amounts specified in clause (1) above and this clause (2).

(d) Depreciation, Interest and Amortization Deductions. If the Owner, in computing its taxable income for Federal, state or local income tax purposes, shall as a result of any of the circumstances set forth in Section 6.3(e) hereof lose the full anticipated benefit of or the right to claim or shall have disallowed or recaptured all or any portion of the ADR Deductions, the Interest Deductions or the Amortization Deductions, then, upon notification thereof by the Owner, the Lessee shall pay the Owner, as Additional Rent, (A) on the next succeeding Rent Payment Date (or within 30 days after such notification if such loss, disallowance or recapture occurs after the expiration of the Lease), with respect to all taxable years ending on or before such Rent Payment Date, and (B) on such succeeding Rent Payment Date during the initial lease term (including such next succeeding Rent Payment Date referred to in clause (A) above), an amount which, after deduction of all Federal, state and local income taxes required to be paid by the Owner in respect of the receipt thereof, shall be sufficient to yield the Owner the same after-tax yield and periodic recovery of net cash flows as would have been realized by the Owner in respect of the Lease if such loss, disallowance

or recapture had not occurred. In addition, the Lessee shall also pay the Owner, upon demand, an amount which, after deduction of all Federal, state and local income taxes required to be paid by the Owner in respect of the receipt thereof, shall be equal to the amount of any interest (net of any actual decrease in Federal, state or local taxes caused by any allowable deduction of such interest from taxable income) or penalties, including any additions to tax due to the underpayment of estimated taxes, assessed against the Owner in connection with such disallowance. If any indemnity payments are made to or for the benefit of the Owner pursuant to this Section 6.3(d), the Owner shall in good faith use its best efforts to gain the benefit of any reductions in its Federal, state or local income taxes in other taxable years that are predicated upon the adjustments giving rise to such earlier indemnity payments, and as and when the Owner realizes a reduction in its Federal, state or local income taxes in a subsequent taxable year as a result of an adjustment consistent with and predicated upon, the Federal, state or local tax adjustments giving rise to such earlier indemnity payments, the Owner shall, so long as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, pay to the Lessee (x) an amount equivalent to the tax reduction actually realized, and (y) the amount of any taxes saved by the Owner in respect of its payment to the Lessee of amounts referred to in clause (x) above and this clause (y); provided, however, that the sum of all payments to be made by the Owner to the Lessee shall not exceed the sum of such prior indemnity payments to the Owner by the Lessee.

(e) Covered Circumstances. The Lessee shall be required to pay the Owner the amounts provided for in Sections 6.3(c) and 6.3(d) only if the loss of the Investment Credit, the ADR Deductions, the Interest Deductions or the Amortization Deductions, as the case may be, shall occur as a result of any one or more of the following events:

(i) any representation or warranty of the Lessee contained in, or made pursuant to, this Lease or any of the other Basic Agreements being incorrect or inaccurate;

(ii) any breach by the Lessee or any affiliate, agent or employee of the Lessee of any representation, warranty, covenant or agreement made by the Lessee in this Lease or any of the other Basic Agreements;

(iii) any act of, or failure to act by, the Lessee or any affiliate, agent or employee of the Lessee or any sublessee or any other Person (other than the Lessor or the Owner) in possession of the Equipment;

(iv) any incomplete, incorrect or inaccurate information being furnished to the Owner or the independent engineer referred to in Section 4.4 of the Participation Agreement by the Lessee or any affiliate, agent or employee of the Lessee, including any misstatement, omission of information or defect of any written statement, opinion or report furnished by the Lessee or by any affiliate, agent or employee of the Lessee to the Owner or said independent engineer with respect to the nature, function, cost or intended use of the Equipment, or with respect to the nature of the materials and support facilities necessary for the efficient commercial operation of the Equipment throughout its projected economic life; or

(v) any latent or other defect in the Lessor's title to the Equipment;

provided, however, that such amounts shall not be payable to the extent that the Investment Credit or the ADR Deductions, the Interest Deductions or the Amortization Deductions are lost, unavailable, disallowed or recaptured as a direct result of the occurrence of any Event of Loss if the Lessee shall have paid to the Owner the amounts provided for in Section 7.1 or Section 7.3 of the Lease, to the extent that such payment reimburses the Owner for amounts otherwise payable to the Owner pursuant to this Section 6.3.

(f) Taxable Expenditures. If for any reason there are any Taxable Expenditures that are required to be included in the gross income of the Owner for Federal, state or local income tax purposes at any time, then the Lessee shall pay the Owner, upon demand, the sum of (i) the amount of any increase in its Federal, state and local income taxes resulting from the inclusion of such Taxable Expenditure in the gross income of the Owner, (ii) the amount of any interest (net of any actual decrease in

Federal, state or local income taxes caused by any allowable deduction of such interest from taxable income) or penalties, including any additions to tax due to the underpayment of estimated taxes, assessed against the Owner in connection therewith, and (iii) the amount of any Federal, state or local income taxes required to be paid by the Owner in respect of the receipt of amounts specified in clauses (i) and (ii) above and this clause (iii). If at any subsequent time the Owner receives a refund with respect to any portion or all of the amount of any such increase in Federal, state or local income taxes, then promptly after receipt of such refund the Owner shall pay the Lessee the sum of (1) all amounts received by the Owner from the Federal, state or local government, as the case may be, with respect to such refund allowance, reduced by all Federal, state or local income taxes required to be paid by the Owner in respect of the receipt thereof, and (2) the amount of any Federal, state or local income taxes saved by the Owner in respect of its payment to the Lessee of amounts referred to in clause (1) above and in this clause (2). If any indemnity payments are made to the Owner pursuant to this Section 6.3(f), as and when the Owner realizes a present or future tax benefit as a direct result of the inclusion in such Owner's gross income in a prior taxable year of all or part of any Taxable Expenditures as to which such indemnity payments were made, so long as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, has occurred and is continuing, the Owner shall pay to the Lessee (x) an amount equivalent to the tax benefit actually realized, and (y) the amount of any taxes saved by the Owner in respect of its payment to the Lessee of amounts referred to in clause (x) above and this clause (y); provided, however, that the sum of all payments to be made by the Owner to the Lessee shall not exceed the sum of such prior indemnity payments to the Owner by the Lessee.

(g) Contest of Claims. If the Internal Revenue Service or any state or local income tax authority formally proposes in writing to require one or more adjustments with respect to any income tax return filed by or in respect of the Owner, which adjustments, if successful, would result in a loss of a tax credit or deduction or an increase in the gross income of the Owner under circumstances that would require the Lessee under this Section 6.3 to indemnify the Owner for such loss or for any net increase in the Owner's gross income, the Owner shall notify the Lessee promptly of such claim, shall forbear payment of the tax claimed

for at least 30 days after giving such notice if such forbearance is permitted by law, shall advise the Lessee of all action taken or proposed to be taken by the Internal Revenue Service or by such state or local income tax authority, and, if the Lessee shall within 30 days after such notice request that any such proposed adjustment be contested and furnish the Owner with an opinion of independent tax counsel (who may be the Lessee's regular outside counsel) reasonably satisfactory to the Owner to the effect that there exists a meritorious basis for contesting such proposed adjustment, shall contest such proposed adjustment in good faith, subject, however, to the following conditions: (i) the Owner need not undertake administrative proceedings beyond the level of an auditing agent with respect to any such proposed adjustment; (ii) the Owner must contest any such proposed adjustment beyond the level of administrative proceedings only if reasonably requested to do so by the Lessee (except that, if so requested, the Owner may decline to contest such proposed adjustment or terminate such contest at any time in its sole discretion, in which case the Lessee's obligation to indemnify with respect to such proposed adjustment shall, except in the cases set forth in clause (v) below or in the proviso there following, terminate); (iii) the Owner may determine the court of competent jurisdiction in which to contest such proposed adjustment; (iv) although the Owner will keep the Lessee informed as to the progress of such litigation and will consult with the Lessee's counsel, if requested, the conduct of such litigation shall remain within the sole discretion of the Owner and its tax counsel, whose decisions may take into account the overall tax interests of the Owner; and (v) the Owner shall not be required to undertake judicial proceedings if the proposed adjustment relates to tax payments of less than \$100,000 (and for this purpose any proposed adjustment that relates to an issue that could affect more than one taxable year shall be treated as involving the total potential undiscounted payments, taking into account all taxable years to which the proposed adjustments could relate) or if the proposed adjustment relates solely to (1) the allocation of basis among different items of depreciable property being depreciated over the same useful life or (2) the taxable year in which any credit or deduction is properly allowable if it is recognized that the credit or deduction is allowable for a prior taxable year that is still open and that the appropriate tax returns will be amended to claim such credit or deduction; and provided that the Owner shall not be required to take any action pursuant to this

sentence unless and until (A) the Owner shall have determined that the action to be taken will not result in the danger of sale, forfeiture or loss of, or the creation of a Lien on, the Equipment or any interest therein, and (B) the Lessee shall have indemnified the Owner in a manner satisfactory to the Owner for any liability or loss which the Owner may incur as a result of contesting the proposed adjustment and shall have agreed to pay the Owner on demand all costs and expenses that the Owner may incur in connection with contesting such proposed adjustment, including, without limitation (w) reasonable attorneys', accountants', engineers' and like professional fees and disbursements, (x) the reasonable fees and expenses of attorneys in the regular employ of the Owner, (y) the amount of any interest or penalty that may be payable as a result of contesting such proposed adjustment, and (z) if the Owner shall elect to contest such proposed adjustment by paying the tax claimed (including such other amounts payable as interest, penalties or additions in respect of such tax) and seeking a refund, interest at the prime commercial loan rate of Manufacturers Hanover Trust Company as in effect from time to time, on the amount of such tax (including such other amounts payable as interest, penalties or additions in respect of such tax) computed from the date of payment thereof to the date the Lessee reimburses the Owner for the tax and other amounts so paid; such interest to be payable in appropriate installments on each Rent Payment Date. Upon receipt by the Owner of a refund of any tax and other amounts so paid by it and in respect of which the Lessee has paid such interest to the Owner while payment of such tax and other amounts was contested by the Owner, so long as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the amount of any interest paid or credited to the Owner in respect of such refund shall be paid to the Lessee forthwith upon receipt. If the Lessee shall have made indemnification payments to the Owner pursuant to this Section 6.3 in respect of the tax and other amounts so contested, then upon receipt by the Owner of such refund, so long as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the Owner shall pay to the Lessee forthwith the sum of (a) the amount of such refund, reduced by all taxes required to be paid by the Owner in respect thereof and (b) the amount of any taxes saved by the Owner in respect of its payment to the Lessee of amounts referred to in clause (1) above and this clause (2).

(h) Time of Payment. For the purposes of this Section 6.3, the obligation of the Lessee to make indemnification payments to the Owner with respect to a loss of tax benefits, or with respect to an increase in tax liability resulting from any Taxable Expenditure, shall commence upon the earlier to occur of (i) if the Lessee does not request that the Owner contest the proposed adjustments, the expiration of the 30-day period specified in Section 6.3(g) hereof and (ii) the delivery to the Lessee the Owner of a notice stating that the Owner intends to make payment to the Internal Revenue Service or any state or local taxing authority, as the case may be, of any tax resulting from such loss disallowance or recapture of the Investment Credit, the ADR Deductions, the Interest Deductions or the Amortization Deductions, or the inclusion in gross income of such Taxable Expenditure. Any amount payable to the Owner in accordance with this Section 6.3 shall be payable on the Lessee's receipt of the Owner's invoice therefor. Each such invoice shall be accompanied by a statement from an officer of the Owner, certifying that he has examined the determination of the amount due and that, in his opinion such amount has been properly calculated pursuant to this Section 6.3, and the Lessee hereby agrees that it will not have the right to inspect the tax returns or any other documents of the Owner or of any affiliate of the Owner in order to confirm the good faith and reasonableness of the calculations made by the Owner pursuant to this Section 6.3 or any determination made by the Owner pursuant to this Section 6.3, provided that upon written request by the Lessee, the Owner shall deliver a certificate of a Senior Officer confirming that the adjustments set forth in the written statement to which such request relates have been reviewed for accuracy by the internal auditors for the Owner under the supervision of such Senior Officer and that the conclusions made by the Owner, as set forth in such written statement, are accurate and in conformity with the provisions of this Section 6.3. For the purpose of calculating any amount due to be paid by the Lessee to the Owner pursuant to this Section 6.3, the Owner's combined effective tax rate for Federal, state and local income taxes shall be deemed to be the maximum statutory rates applicable to the Owner as of December 31, 1981.

(i) "Owner"; Survival. For the purposes of this Section 6.3, the term "Owner" shall include the "common parent" and all other corporations included in the affiliated group (within the meaning of Section 1504 of

the Code) of which the Owner is or becomes a member. The provisions of this Section 6.3 shall survive the expiration or termination of this Lease and the other Basic Agreements.

(j) Covered Taxes. The Federal, state and local income taxes to which this Section 6.3 applies are those imposed by the United States or by the state or political subdivision thereof in which the Owner has its principal place of business on the Closing Date.

(k) Coordination with Section 3.5. In determining any amount of Additional Rent payable pursuant to this Section 6.3, the "after tax yield and periodic recovery of net cash flows which would have been realized by the Owner in respect of the Lease" shall be the "after tax yield and periodic recovery of net cash flows" determined based on the accuracy of the assumptions in Schedule C before any increases in such after tax yield and periodic recovery of net cash flows realized by the Owner because of adjustments in the Percentages pursuant to Section 3.5 of the Lease.

(l) Payments by Owner to Lessee. Any payment which the Owner would be required to pay to the Lessee pursuant to this Section 6.3 except for the fact that an Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, has occurred and is continuing shall, unless the term of this Lease shall have been terminated pursuant to Section 17.2, be paid to the Lessee at such time as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall be in existence.

6.4. Survival; No Guaranty. The Lessee's and the indemnified parties' agreements to pay any sums which may become payable pursuant to Section 6.1, 6.2 or 6.3 shall survive the expiration or other termination of this Lease. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of payment of the Conditional Sale Indebtedness or of the residual value of the Equipment following the expiration of the term hereof as such term may or may not be renewed.

## SECTION 7. PAYMENT FOR CASUALTY OCCURRENCES; INSURANCE.

7.1. Casualty Occurrences. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use

from any cause whatsoever, or taken or requisitioned by condemnation by any governmental authority or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (all such occurrences being hereinafter called "Casualty Occurrences"), during the term of this Lease, or until such Unit shall have been returned in the manner provided in Section 16 or 18, the Lessee shall promptly and fully notify or cause to be notified (after the Lessee has knowledge of such Casualty Occurrence) the Lessor and the Agent with respect thereto. On the Rent Payment Date next succeeding the delivery of such notice (or, in the event that the term of this Lease has already expired, on a date within 15 days of such delivery) the Lessee shall pay or cause to be paid to the Lessor an amount equal to all Basic Rent and Additional Rent in respect of such Unit due and payable on or prior to such date plus a sum equal to the Casualty Value of such Unit as of such date (such Rent Payment Date being hereinafter called the "Calculation Date"). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit.

If the date upon which the making or causing to be made of such payment by the Lessee in respect of any Unit as required as aforesaid shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit, shall pay or cause to be paid interest thereon from the end of such term to the date of such payment at the rate of 15 3/4% per annum.

The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this 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 no Event of Default hereunder, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to retain 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. If any such Event of Default or event has occurred and is continuing, the Lessee shall promptly pay all such proceeds to the Lessor, provided that if no Declaration of Default has occurred and is continuing and at such time as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, exists, the Lessor shall return all such proceeds up to the amount of the Casualty Value to the Lessee.

The "Casualty Value" of each Unit as of the Calculation Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date (subject to adjustment as provided in Section 3.5).

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Section 16 or 18, as the case may be, promptly upon such return rather than at the end of the term of this Lease; but the Lessee shall in all other respects comply with the provisions of Section 16 or 18, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee, provided that if an Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing such payments shall be paid over to or retained by the Lessor, (i) until such time as no Event of Default or event which with notice or lapse of time or both would constitute an Event of Default, is continuing, at which time the Lessor shall return all such payments to the Lessee or (ii) until a Declaration of Default has occurred and is continuing, at which time such payments shall be applied as set forth in Section 3.5 of the Lease Assignment. All payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Lessor.

Except as provided in this Section 7.1, 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.

7.2. Insurance. The Lessee agrees that it will at all times during the term of this Lease and at its own cost and expense keep each Unit insured under "All Risk" policies against loss by fire, windstorm and explosion and with extended coverage and against such other risks as are customarily insured against by companies owning property of a similar character and as are satisfactory to the Owner and the Agent and in amounts not less than the Casualty Value of such Unit at any time and will maintain general public liability insurance with respect to the Equipment against damage because of bodily injury, including death, or damage to property of others, in such amounts as are customarily insured against by companies owning property of a similar character and in an amount satisfactory to the Owner and the Agent. Any such insurance may have applicable thereto deductible provisions in an amount no greater than \$500,000 per occurrence and may be carried under blanket policies maintained by the Lessee so long as such policies otherwise comply with the provisions of this Section 7.2. All such property and casualty insurance shall provide that all proceeds shall be adjusted with the Lessee and the Lessor jointly, and shall be payable to the Agent (or, after receipt of notice from the Agent stating that the Conditional Sale Indebtedness has been discharged, to the Lessor). All such liability insurance shall designate the Lessor, the Lessee, the Owner, the Agent and the Lenders as additional insureds and shall be payable to the person or persons to whom the liability covered by such insurance has been incurred. All such policies shall provide (a) that the insurer thereunder waives all rights of subrogation against the Lessor, the Lessee, the Owner, the Agent and, if applicable, the Lenders, (b) that no cancellation, termination or material change in such insurance shall be effective until at least 30 days after the receipt by the Agent, the Owner and the Lessor of written notice thereof, (c) that such insurance as to the interests of the Lessor, the Owner, the Agent or the Lenders therein shall not be invalidated by any act or neglect of, or violation of the terms, conditions or warranties of the insurance policy by, the Lessee or any other person or by the use or operation of the Equipment for purposes more hazardous or in a manner more hazardous than is permitted

by such policy, (d) that such insurance as to the interests of the Agent or the Lenders therein shall not be invalidated by any foreclosure or other remedial proceedings or notices thereof relating to the Equipment or any interest therein nor by any change in the title or ownership of the Equipment or any interest therein or with respect thereto, (e) that neither the Lessor, the Owner, the Agent nor the Lenders shall be liable for the payment of any premiums, commissions, assessments or calls in connection with such insurance, (f) that all provisions thereof, except the limits of liability (which shall be applicable to all insureds as a group) and liabilities for premiums (which shall be solely a liability of the Lessee), shall operate in the same manner as if there were a separate policy covering each such insured, without right of contribution from any other insurance which may be carried by any insured, and (g) that the issuer will undertake the legal defense of the Lessor, the Owner, the Agent and the Lenders. The Lessee shall furnish the Lessor with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal policy or policies shall furnish certificates evidencing such renewal prior to the expiration date of the original policy or policies. All insurance provided for in this Section 7.2 shall be effected with insurance companies approved by the Lessor and the Agent, which approval shall not be unreasonably withheld.

If no Event of Default, or any event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the proceeds of any insurance received by the Lessor or the Agent on account of or for any loss or casualty in respect of any Unit shall be released to the Lessee either (x) upon a written application signed by the President, any Vice President or the Treasurer of the Lessee for the payment of, or to reimburse the Lessee for the payment of, the cost of repairing or restoring such Unit if it has been damaged (which application shall be accompanied by satisfactory evidence of such cost and of the completion of such repair or restoration), or (y) if this Lease is terminated with respect to such Unit, promptly upon payment by the Lessee of the Casualty Value to the Lessor. If an Event of Default, or an event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the Lessor shall retain any such insurance proceeds until either the preceding sentence of this Section 7.2 becomes applicable or a

Declaration of Default has occurred and is continuing, and thereafter shall apply such insurance proceeds as set forth in the preceding sentence of this Section 7.2 or in Section 3.5 of the Lease Assignment, as the case may be.

7.3. Special Termination Event. If the Owner shall notify the Lessee that the Lessor, any of the Lenders or the Owner or any affiliate of the Lessor, any of the Lenders or the Owner, by reason of (i) the legal or beneficial ownership of the Units or any portion thereof by the Lessor or the Owner or (ii) the lease of the Units to the Lessee hereunder or (iii) any of the other transactions contemplated hereby or by any of the other Basic Agreements, is deemed by any governmental authority having jurisdiction to be, or has or will become subject to regulation as, an "electric utility" or a "public utility" or a "public utility holding company" under any law or governmental regulation, Federal, state or local, then on the date (the "Purchase Date") which is the Rent Payment Date next succeeding the delivery of such notice, the Lessee shall purchase all the Units then subject to this Lease for a cash purchase price equal to the greater of (i) the Casualty Value of such Units as of such Rent Payment Date and (ii) the Fair Market Sale Value of such Units as of such Rent Payment Date. The Lessee shall also pay to the Lessor on the Purchase Date all Basic Rent and Additional Rent then due and payable hereunder. If on the Purchase Date the Fair Market Sales Value has not as yet been determined, the Lessee shall pay to the Lessor on the Purchase Date the Casualty Value of the Units and, upon determination of the Fair Market Sales Value of the Units, the Lessee shall pay to the Lessor the amount, if any, by which such Fair Market Sales Value exceeds such Casualty Value. Upon receipt of the amounts payable by the Lessee on the Purchase Date, the Lessor shall transfer title to the Units to the Lessee "as-is, where-is", without representation or warranty, express or implied, by the Lessor and without recourse to the Lessor, and the term of this Lease shall terminate.

#### SECTION 8. REPORTS; INSPECTION.

On or before March 31 in each year, commencing with the calendar year 1982, the Lessee will furnish or cause to be furnished to the Lessor, the Owner, the Agent and each Lender an accurate statement in appropriate form (a) setting forth as at the preceding December 31 the amount, description and number of all Units then leased

hereunder, the amount, description and number of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Agent may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by Section 5 have been preserved or replaced. The Lessor and the Agent shall have the right (but not the duty) by their respective agents to inspect the Units and the Lessee's and its agents' records with respect thereto at such reasonable times as the Lessor or the Agent may request during the continuance of this Lease, provided that the Lessee shall not be liable, except in the case of its negligence or misconduct or that of its employees or agents, for any injury or death to any person exercising, either on behalf of the Lessor or any prospective purchaser or lessee, the rights of inspection granted hereunder.

The Lessee agrees at its expense to prepare and deliver or cause to be prepared and delivered to the Lessor, the Owner or the Agent, as the case may be, within a reasonable time prior to the required date of filing (and, to the extent permissible, file on behalf of the Lessor, the Owner or the Agent) any and all reports in appropriate form (other than income or franchise tax returns) to be filed by the Lessor, the Owner or the Agent with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units, the beneficial ownership thereof by the Owner, the security interest of the Agent therein or the leasing thereof to the Lessee.

SECTION 9. DISCLAIMER OF WARRANTIES; COMPLIANCE WITH LAWS AND RULES; MAINTENANCE; ALTERATIONS

9.1. Disclaimer of Warranties. NEITHER THE LESSOR, THE OWNER NOR THE AGENT MAKES, HAS MADE OR SHALL BE DEEMED TO MAKE OR HAVE MADE, ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP

IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE LESSOR, THE OWNER NOR THE AGENT MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Lessor, the Owner and the Agent, on the one hand, and the Lessee on the other, are to be borne by the Lessee except that the Lessor warrants that it has received and holds whatever title to the Units as was conveyed to it by the Manufacturer and except further that Lessor in its individual capacity warrants that each Unit shall be free of Trustee's Liens and it shall pay and discharge the same as provided in Section 14 of the Conditional Sale Agreement. The Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Manufacturer, pro-  
vided that if at any time an Event of Default, or any event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, the Lessor may assert and enforce for the Lessor's sole benefit, but at the Lessee's sole cost and expense, such claims and rights. The Lessor, the Owner and the Agent 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 Unit or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith; (ii) the use, operation or performance of any Unit 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 Unit. 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, the Owner or the Agent based on any of the foregoing matters.

9.2. Compliance with Laws and Rules. The Lessee agrees, for the benefit of the Lessor, the Owner and the Agent, 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 any Unit may extend, with the interchange rules of the Association of American Railroads and with all 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 Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that any such law, rule or regulation requires any alteration, replacement, modification or addition of or to any Unit or any part thereof, the Lessee will fully comply therewith at its own expense, provided that the Lessee may upon written notice to the Lessor and the Agent, in good faith contest or cause to be contested the validity or application of any such law, rule or regulation in any reasonable manner which does not, in the opinion of both the Lessor and the Agent, adversely affect the property or rights of either the Lessor or the Agent under this Lease.

9.3. Maintenance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any Additions thereto) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted. Each Unit will be consistently maintained in accordance with applicable railroad interchange rules and Federal and Railroad Safety Standards. Maintenance procedures will conform to any conditions set forth in the Manufacturer's warranties during the term of such warranties. The term "ordinary wear and tear" for purposes of this Lease shall mean that wear and tear which would have been suffered by units of the same type which had carried at all times, and over the same period of time, commodities of the kind ordinarily carried in the Units by the Lessee.

9.4. Alterations, etc. The Lessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce

Commission, the United States Department of Transportation or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit) (hereinafter collectively called "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease, provided that no such Addition shall be made if, in the case of an alteration or modification, the Unit cannot be readily restored to its original condition immediately prior to the time such alteration or modification was made or, in the case of an addition, the addition is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such addition not been made, assuming the Unit was then in the condition required to be maintained by the terms of this Lease.

Title to all Parts incorporated in or installed as part of the Units shall at all times be and remain the property of the Lessor.

#### SECTION 10. PROHIBITED LIENS.

The Lessee will not directly or indirectly create or permit or suffer to be created or to remain, and, at its own expense, will promptly pay or discharge any and all sums claimed by any person which, if unpaid, might become a Lien upon or with respect to any Unit or any part thereof or the interest of the Lessor, the Owner, the Agent or the Lessee therein or herein, other than Permitted Liens, and will promptly discharge any such claim or Lien which arises, but shall not be required to pay or discharge any such claim or Lien so long as (i) the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner, (ii) prompt notice of such contest is given to the Lessor and the Agent and (iii) the nonpayment or non-discharge of such claim or Lien does not, in the reasonable opinion of the Agent or the Lessor, materially adversely affect the interest of the Agent or the Lessor in or to the Equipment or proceeds thereof, the Agent's interest

in the income and proceeds from the Equipment, or any other rights of the Agent or the Lessor under this Lease or any Security Document and (iv) adequate reserves have been provided by the Lessee for the payment or discharge of such claim or Lien to the extent required by generally accepted accounting principles.

SECTION 11. POSSESSION AND USE; ASSIGNMENTS AND SUBLEASES.

The Lessee shall be entitled to the possession of the Units in accordance with the terms of this Lease. Except as permitted by this Section 11, the Lessee shall not assign or transfer its rights hereunder or sublease or part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

So long as no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, this Lease does not prohibit the use of the Equipment by others in the usual interchange of traffic, but the Lessee will under no circumstances permit any Unit to be assigned to service, or to be operated or maintained, outside the United States of America. The Lessee will not sublease any of the Units without the prior written approval of the Lessor and the Agent of the sublessee, except that the Lessee may sublease all or 50% of the Units for a period not exceeding 18 months without such approval if at the end of the original term of such sublease such Units will no longer be subject to any sublease. Notwithstanding the foregoing, no sublease for any period shall be permitted unless (i) no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing at the commencement of the term of such sublease, (ii) all of such Units are subleased to the same sublessee for use in a single unit train or in multiple unit trains, all of which are operated in one service by the sublessee, in either case in the same manner as contemplated by the Lessee at the commencement of the term of this Lease, (iii) such sublease specifically provides that it is subject and subordinate to the provisions of this Lease and the rights and remedies of the Lessor and the Agent hereunder, and (iv) such sublease does not adversely affect the Owner's ability to realize the full benefits of the tax assumptions set forth in Section 6.3 or jeopardize the Agent's or the Lessor's interests in the

Units. No sublease entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder, all of which shall be and remain those of a principal and not a surety.

#### SECTION 12. MERGER, CONSOLIDATION, ETC.

The Lessee may assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any solvent corporation 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, in compliance with the requirements of Section 12.3 of the Participation Agreement.

#### SECTION 13. EARLY TERMINATION.

In the event that all or 50% of the Units shall become surplus to the Lessee's requirements or economically unserviceable for use by the Lessee (as determined in good faith by the Lessee's Board of Directors) from any cause whatsoever (other than a Casualty Occurrence), the Lessee may, at its option, if no Event of Default shall have occurred and be continuing, give to the Lessor notice of the Lessee's intention to terminate this Lease as to all or 50% of the Units subject to this Lease as of the Rent Payment Date stated in such notice (herein called the "Termination Date"), which Rent Payment Date shall not be earlier than 180 days after the date of such notice nor earlier than the twenty-second Rent Payment Date. During the period from the giving of such notice until the Termination Date, the Lessee, as agent for the Lessor, shall use its best efforts to obtain cash bids (pursuant to invitations for bids reasonably satisfactory in form and substance to the Lessor) for the purchase of such Units. The Lessor and the Owner shall also have the right to obtain cash bids for the purchase of such Units, either directly or through agents other than the Lessee. The Lessee shall certify to the Lessor in writing the amount of each bid, if any, received by the Lessee and the name and address of the person submitting such bid.

If no such bids are received by the tenth Business Day prior to the Termination Date or if the Lessee shall elect not to sell such Units despite the receipt of such

bids, the Lessee shall notify in writing the Lessor, the Agent and the Lenders of such fact and shall withdraw its notice of termination. Otherwise, on the Termination Date the Lessor shall, subject to satisfaction of the conditions specified in the following sentence, sell such Units for cash to the maker (who shall not be the Lessee or any affiliate of the Lessee) of the highest cash bid therefor submitted prior to such date (whether such bid has been so certified by the Lessee or obtained by the Lessor or the Owner independently of the efforts of the Lessee), such sale to be on an "as-is, where-is" basis, without any representation or warranty, express or implied, by the Lessor and without recourse to the Lessor. The Lessor's obligation to sell such Units shall be subject to the conditions that: (i) no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be continuing on, and the Lessee shall have paid to the Lessor all Basic Rent and Additional Rent payable hereunder on or before, the Termination Date, and (ii) the Lessee shall, on or before the Termination Date, have paid to the Lessor the amount, if any, by which the Termination Value, determined as of the Termination Date, exceeds the amount of cash received by the Lessor for such sale less all expenses (including legal fees and expenses) incurred or paid by the Lessor or the Owner in connection with such sale.

Upon the closing of the sale of such Units by the Lessor pursuant to the preceding paragraph, (i) the Lessee shall comply with the provisions of Section 16 with respect to such Units, (ii) the obligation of the Lessee to pay Basic Rent hereunder shall cease with respect to such Units, and (iii) the term of the Lease with respect to such Units shall end on the Termination Date. If the Lessee withdraws any notice of termination given pursuant to the first paragraph of this Section 13 or if for any reason (other than the failure of the Lessor to tender a bill of sale) no sale shall be made pursuant to any such notice of termination, the Lessee shall not be obligated to pay the amount set forth in clause (ii) of the preceding paragraph and this Lease shall continue in full force and effect with respect to such Units, but the Lessee may at any time or from time to time thereafter give a further notice or notices of termination with respect to the Units under this Section 13, provided that no such further notice of termination may be given until 365 days shall have elapsed since the giving of the previous notice of termination. Neither the Lessor nor the Owner shall be

under any duty to solicit bids, to inquire into the efforts of the Lessee to obtain bids, or otherwise to take any action in connection with any such sale except as expressly provided in the preceding paragraphs of this Section 13. In the event of the sale of the Units pursuant to this Section 13, the Lessee shall not thereafter acquire directly or through any affiliate of the Lessee any interest in any of the Units as owner or lessee.

The Termination Value of each Unit as of the Termination Date shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite such date (subject to adjustment as provided in Section 3.5).

#### SECTION 14. RENEWAL OPTION.

So long as no Event of Default has occurred and is continuing, the Lessee may renew this Lease as to all or 50% of the Units subject to this Lease on September 30, 1999 for one or more renewal periods, the first of which shall commence on October 1, 1999, each period having a term of one or more years (as shall be specified by the Lessee), provided that this Lease may not be renewed for a period ending after September 30, 2007. The Lessee shall give the Lessor at least 12 months' prior written notice of such renewal (specifying the term of such renewal), which notice shall be irrevocable. All of the provisions of this Lease shall be applicable during each renewal period, except that the Basic Rent for such renewal period shall be in an amount equal to the Fair Market Rental Value of the Units, as of the first day of such renewal period, for a period equal to such renewal period, and shall be payable in semiannual installments in arrears.

#### SECTION 15. PURCHASE OPTION.

If the Lessee has renewed this Lease for the maximum period permitted by Section 14 and if no Event of Default shall have occurred and be continuing, the Lessee shall have the option to purchase all or 50% of the Units on the last day of the final renewal period (such day being hereinafter called the "Expiration Date") at a price which shall be equal to the Fair Market Sales Value of the Units purchased at such time. In order to exercise such right to purchase such Units, the Lessee shall give the Lessor

written notice of its election to purchase such Units (which notice shall be irrevocable) at least 180 days prior to the Expiration Date. The Fair Market Sales Value of the Units shall be determined by mutual agreement of the Lessee and the Lessor within 45 days after receipt by the Lessor of the notice from the Lessee of its election to purchase such Units or, if they shall fail to agree within such 45-day period, the Fair Market Sales Value of such Units shall be determined by the Appraisal Procedure. The Lessee shall pay to the Lessor on or before the Expiration Date an amount equal to the Fair Market Sales Value of the Units being purchased, and upon such payment and the payment by the Lessee of all other rent payable on or before such Expiration Date (including the rent becoming due and payable on such Expiration Date), the Lessor shall transfer all of its right, title and interest in the Units being purchased by the Lessee pursuant to this Section 15 to the Lessee without any representation, recourse or warranty on the part of the Lessor except that the Lessor shall warrant to the Lessee that the Units are free and clear of all Lessor's Liens.

SECTION 16. RETURN OF UNITS UPON EXPIRATION OF TERM.

On or prior to the termination of the term of this Lease with respect to any Units or as soon as practicable after the termination of the term of this Lease with respect to any Units and in any event not later than 90 days of the termination of the term of this Lease with respect to any Units (except in each case with respect to a termination pursuant to Section 7.1), the Lessee will cause each Unit to be transported to such storage tracks in the State of Louisiana as it shall designate immediately prior to such termination or, in the absence of such designation, as the Lessor may designate, and the Lessee will arrange for storage of such Unit on behalf of the Lessor at such storage tracks. Each Unit shall be stored for a period commencing on the date of its arrival at such storage tracks (whether designated by the Lessor or the Lessee) and extending thereafter to a date not later than 120 days from the date at which the last of such Units is placed in storage pursuant to this Section 16. The assembly, delivery and storage of such Units shall 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 or user of such Unit, to inspect the same. The Lessee shall not be liable

for any injury to or the death of any person exercising, either on behalf of the Lessor or any prospective purchaser or user, the foregoing rights of inspection except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. This agreement to assemble, deliver and store the Units as hereinbefore provided is 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 hereof. Each Unit returned to the Lessor pursuant to this Section 16 shall (a) be free and clear of all Liens (other than Lessor's Liens or Liens created pursuant to or under Security Documents) in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (b) have attached or affixed thereto all Parts and (c) comply with the interchange rules of the Association of American Railroads and with all 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 such Unit. If any Unit suffers a Casualty Occurrence during any storage period provided for in this Section 16, the Lessee shall pay to the Lessor the Casualty Value of such Unit in the amount and on the date required by Section 7. All gross amounts earned in respect of any Unit shall, from and after the termination of this Lease as to such Unit, belong to and be the property of the Lessor except for amounts due to the Lessee pursuant to Section 7.1.

SECTION 17. DEFAULTS; REMEDIES.

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

(a) payment of any Basic Rent or payment in respect of any Casualty Occurrence pursuant to Section 7.1 or payment in respect of any termination of this Lease pursuant to Section 7.3 or 13 shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for five days after such payment is due; or

(b) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof; or

(c) the Lessee shall fail to maintain insurance as required by Section 7.2; or

(d) 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 or the Lease Assignment, and such default shall continue for 30 days after written notice from the Lessor, the Owner, the Agent or any of the Lenders to the Lessee specifying the default and demanding that the same be remedied; or

(e) any representation or warranty made in writing by the Lessee herein or in the Participation Agreement or the Lease Assignment or in any statement or certificate furnished to the Lessor, the Owner, the Agent or any of the Lenders pursuant to or in connection with this Lease, the Participation Agreement or the Lease Assignment proves to be untrue in any material respect as of the date of issuance or making thereof excluding the representation contained in Section 5.19 of the Participation Agreement and any other representation or warranty for the breach of which indemnity is provided under Section 6; or

(f) the Lessee shall (i) be generally not paying its debts as they become due, (ii) file, or consent by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, (iii) make an assignment for the benefit of its creditors, (iv) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property, (v) be adjudicated insolvent or be liquidated, or (vi) take corporate action for the purpose of any of the foregoing; or

(g) a court or governmental authority of competent jurisdiction shall enter an order (i) appointing, without consent by the Lessee, a custodian, receiver, trustee or other officer with similar powers with respect to the Lessee, or with respect to any substantial part of its property, and within 30 days after entry of such order such appointment shall not have been set aside or (ii) constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or (iii) ordering the dissolution, winding-up or liquidation of the Lessee; or if any petition referred to in clause (ii) above shall be filed against the Lessee and such petition shall not be dismissed within 30 days; or

(h) default shall be made in the payment of the principal of or interest on any indebtedness of the Lessee which default results or could result in indebtedness of an aggregate principal amount in excess of \$25,000 becoming immediately due and payable, unless such default is, in the Lessor's reasonable opinion, being contested in good faith and during the pendency of such contest such indebtedness shall not be required to be paid; or

(i) an event which constitutes an event of default under the lease between the Lessee and the assignee of Lessee's rights under the Purchase Agreement with respect to the railroad equipment (other than the Equipment) referred to therein;

then the Lessor may exercise any of the remedies set forth in Section 17.2. The Lessee shall deliver to the Lessor and the Agent, promptly upon any responsible officer's becoming aware of any condition which constitutes, or which with notice or lapse of time or both would constitute, an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section 17.1, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

17.2. Remedies. If an Event of Default shall have occurred and be continuing, the Lessor, at its option, may by notice in writing to the Lessee terminate the term of this Lease with respect to all Units then subject thereto, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall nevertheless have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing accrued Basic Rent pro rata to such date) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify:

(x) a sum with respect to each Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in such case on the basis of a 8.5% per annum discount, compounded semi-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or

(y) an amount equal to the excess, if any, of the Casualty Value as of the Rent Payment Date on or next preceding the date of termination over the amount

the Lessor reasonably estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time,

provided that in the event the Lessor shall have sold or leased any Unit as permitted by this Section 17.2, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding subparagraphs (x) and (y) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty

(i) in the case of such sale, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the Rent Payment Date on or next preceding the date of termination, over the net proceeds of such sale, and

(ii) in the case of such leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Lessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of a 8.5% per annum discount, compounded, in the case of rental which is estimated under Clause (II) of this subparagraph, semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity, including, without limitation, the right of the Lessor to proceed by

appropriate court action or actions at law or in equity or otherwise to enforce performance by the Lessee of the applicable covenants of this Lease and the Participation Agreement or to recover damages for the breach thereof, whether before, during, or after an Event of Default hereunder.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit and the placing of any Unit in the condition necessary to meet the requirements of the second sentence of Section 18.

The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make such rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies; and a waiver of any such right on one occasion shall not constitute a waiver of such right as to any other occasion and shall not be effective unless in writing signed by the Lessor.

#### SECTION 18. RETURN OF UNITS UPON DEFAULT.

If the term of this Lease shall be terminated pursuant to Section 17 the Lessee shall forthwith deliver or cause to be delivered possession of the Units to the Lessor and shall give or cause to be given prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Lessor

pursuant to this Section 18 shall (i) be free and clear of all Liens (other than Liens created pursuant to or under the Security Documents) in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) have attached or affixed thereto all Parts, and (iii) comply with the interchange rules of the Association of American Railroads, and with all 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 such Unit. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

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

(b) furnish and arrange for the Lessor to store any or all of the Units on any lines of railroad or premises approved by the Lessor without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor, and

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

During any assembly, delivery or storage period the Lessee will, at its own cost and expense, maintain the insurance required by Section 7.2 of this Lease, maintain and keep each such Unit in good order and repair and will permit the inspection of the Equipment by the Lessor, the Lessor's representatives and prospective purchasers, lessees and users. This agreement to assemble, deliver and store the Equipment as hereinbefore provided is 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 hereof. The Lessee hereby expressly waives any and all claims against the Lessor and its agent or agents for damages of whatever nature in connection with any retaking of any unit in any reasonable manner. In the event that the Units or any thereof are sold, the Lessee shall pay to the Lessor the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the Lessor at the location specified in paragraph (a) above.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 18, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

#### SECTION 19. RECORDING; FURTHER ASSURANCES.

The Lessee, at its own expense, will cause this Lease, the Conditional Sale Agreement, the Assignment, the Lease Assignment, any sublease permitted by Section 11, and any other assignment or transfer hereof or thereof and any amendment or supplement hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303 or such successor thereto as may then be in effect, to the full extent required to protect the rights intended to be created in the Lessor and the Agent hereunder and thereunder.

The Lessee will cause to be done, executed, acknowledged and delivered all such further acts, conveyances and assurances as the Lessor, the Owner, each of the Lenders or the Agent shall require for accomplishing the purposes of this Lease and the other Basic Agreements. Upon the expiration of the term with respect to any Unit for any reason, the Lessee will execute such assignments of warranties and other rights and interests of the Lessee relating to such Unit as the Lessor may request. The Lessee will take, or cause to be taken, such action with respect to the recording, filing, re-recording and re-filing of this Lease, the Conditional Sale Agreement, the Assignment,

the Lease Assignment, any sublease permitted by Section 11, and any other assignment or transfer hereof or thereof, or any amendments and supplements to any thereof, and any financing statements, continuation statements or other instruments (including, without limitation, any financing or other statements or instruments relating to a change of name or location by the Lessor or the Lessee), in such manner and in such places as is necessary, or as shall be deemed desirable by the Lessor, the Owner, the Agent, a Majority in Interest of Lenders or counsel thereto, to establish, perfect, preserve and protect the Lessor's rights and interests as owner of the Equipment and as lessor under this Lease and so long as the Conditional Sale Indebtedness shall remain outstanding, the security interests created by the Conditional Sale Agreement, the Assignment and the Lease Assignment, and shall furnish to the Lessor and the Agent evidence of all actions taken by it under this and the preceding sentences. The Lessee will furnish to the Lessor, the Lenders and the Agent annually after the execution hereof (but not later than March 15th of each year), commencing with the year 1982, an opinion of counsel satisfactory to the Lessor and a Majority in Interest of Lenders stating either: (i) that in the opinion of such counsel such action has been taken with respect to the recording, filing, re-recording and re-filing of this Lease, the Conditional Sale Agreement, the Assignment, the Lease Assignment, any sublease permitted by Section 11, and any other assignment or transfer hereof or thereof (and any amendments or supplements to any thereof) and any financing statements or other instruments as is necessary to maintain the perfection of the security interests created thereby and the Lessor's rights and interests as owner of the Equipment and as lessor under this Lease and reciting the details of such action; or (ii) that in the opinion of such counsel no such action is necessary to maintain the perfection of such security interests or such rights and interests of the Lessor.

SECTION 20. LESSOR'S RIGHT TO PERFORM FOR THE LESSEE.

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable costs and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the rate of 15 3/4% per annum, shall be payable by the Lessee upon demand.

SECTION 21. 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 Lessor or the Lessee, 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 incorporators, stockholders, directors, officers, as such, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

SECTION 22. NOTICES.

All notices, requests, demands and other communications required or contemplated by the provisions of this Lease shall, unless otherwise specified, be in writing or by telex or by telegraph, and shall be deemed to have been given or made on the fifth Business Day after deposit thereof in the United States mails, certified, first-class postage prepaid, or when received if sent by telex or telegraph or delivered by hand, addressed as follows:

To the Lessee: Central Louisiana Electric  
Company, Inc.  
Post Office Box 111  
Alexandria, Louisiana 71301  
Attention: Chief Financial  
Officer

To the Lessor: Wilmington Trust Company  
Tenth and Market Streets  
Wilmington, Delaware 19899  
Attention: Equipment Leasing  
Department

To the Agent: The Connecticut Bank and Trust  
Company  
One Constitution Plaza  
Hartford, Connecticut 06115  
Attention: Corporate Trust  
Department

or as to any such party, or its assignee, to such other address as such party or assignee may from time to time specify by notice hereunder.

SECTION 23. LEASE SUBJECT TO CONDITIONAL SALE AGREEMENT;  
ENFORCEMENT BY AGENT; ORIGINAL COUNTERPART.

If and so long as this Lease is assigned to the Agent (or any successor thereto) for collateral purposes, wherever the term "Lessor" is used in this Lease it shall also apply and refer to the Agent and any successors thereto unless the context shall otherwise require, provided that the Agent shall not be subject to any liabilities or obligations under this Lease. The fact that the Agent and the Lenders are specifically named in certain provisions of this Lease shall not be construed to mean that the Agent or the Lenders (and any successors thereto) are not entitled to the benefits of other provisions where only the Lessor is named or where only the Agent or the Lenders, as the case may be, are named.

All rights and obligations of the Lessee under this Lease and in and to the Equipment are subject to the rights of the Agent under the Security Documents, and if an event of default under any of the Security Documents (which includes, among other things, any Event of Default hereunder) shall have occurred and be continuing, the Agent may, as provided in the Lease Assignment, take any action permitted under Section 19 of the Conditional Sale Agreement or under Section 6 of the Lease Assignment, and may exercise all of the rights and remedies of the Lessor under Section 17 and 18 of this Lease, provided that the Agent may not, in the absence of an Event of Default hereunder, take any action under this Lease or the Lease Assignment which would interfere with the rights of the Lessee hereunder, including the right to possession and use of the Equipment, except in accordance with the terms and conditions hereof.

Until the Lessee receives notice from the Agent stating that the Agent has received the full Conditional Sale Indebtedness, together with interest and all other indebtedness and payments as provided in the Conditional Sale Agreement and the Participation Agreement, all amounts payable by the Lessee hereunder to the Lessor, other than Excepted Payments, shall be paid by the Lessee to the Agent

at its office located at the address set forth in Section 22 of this Lease or at such other office as the Agent may specify from time to time by notice to the Lessee. All such payments to the Agent shall be made in the manner and by the time specified in Section 3.3, and the right of the Agent to receive all such payments shall not be subject to any defense, counterclaims, set-off or any right or claim of any kind which Lessee may be able to assert against the Lessor.

To the extent, if any, that this Lease constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction), no security interest in this Lease may be created by the transfer or possession of any counterpart hereof other than the original counterpart which shall be identified as the counterpart containing the receipt therefor executed by the Agent on or immediately following the signature page thereof.

#### SECTION 24. LESSOR NOT PERSONALLY LIABLE.

Wilmington Trust Company is entering into this Lease solely as trustee for the Owner under the Trust Agreement and not in its individual capacity, and in no case whatsoever shall Wilmington Trust Company (or any entity acting as successor trustee, co-trustee or separate trustee under the Trust Agreement) be personally liable on, or for any loss in respect of, any of the statements, representations, warranties, agreements or obligations of the Lessor hereunder, as to all of which the Lessee agrees to look solely to the Trust Estate, except for any loss caused by its own wilful misconduct or gross negligence.

#### SECTION 25. SUCCESSORS AND CO-TRUSTEES.

If a successor trustee is appointed in accordance with the terms of the Trust Agreement, such successor trustee shall, without further act, succeed to all the rights, duties, immunities and obligations of the Lessor hereunder and the predecessor trustee shall be released from all further duties and obligations hereunder all without the necessity of any consent or approval by the Lessee and without in any way altering the terms of this Lease or the Lessee's obligations hereunder. The trustee under the Trust Agreement or any successor trustee thereunder may from time

to time appoint one or more co-trustees or separate trustees pursuant to the terms of the Trust Agreement to exercise or hold any or all of the rights, power and title of the Lessor hereunder, without the necessity of any consent or approval by the Lessee and without in any way altering the terms of this Lease or the Lessee's obligations hereunder. One such appointment and designation of a successor trustee, co-trustee or separate trustee shall not exhaust the right to appoint further successor trustees, co-trustees or separate trustees pursuant to the Trust Agreement, and such right may be exercised repeatedly so long as this Lease shall be in effect. The Lessee shall, at its expense, upon receipt of written notice of the appointment of a successor trustee, co-trustee or separate trustee under the Trust Agreement, promptly make such modifications and changes to reflect such appointment as shall be reasonably requested by such successor trustee, co-trustee or separate trustee in such insurance policies, schedules, certificates and other instruments relating to the Equipment or this Lease as shall be specified by such successor trustee, co-trustee or separate trustee, all in form and substance satisfactory to such successor trustee, co-trustee or separate trustee and its counsel.

#### SECTION 26. THE AGENT.

The provisions of this Lease which require or permit action, the consent or approval of, the furnishing of any instrument or information to, or the performance of any other obligations to, the Agent shall not be affected, and the sections hereof containing such provisions shall be read as though there were no such requirements or permissions, after the Agent shall have given the Lessor and the Lessee notice of the termination of the Conditional Sale Agreement in accordance with Section 7 thereof.

#### SECTION 27. MISCELLANEOUS.

27.1. Waivers; Modifications. No term or provision of this Lease may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought; no such instrument shall be effective unless a signed copy thereof shall have been delivered to the Lessor, the Lessee, the Lenders and the Agent.

27.2. 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.

27.3. Binding Effect; Successors and Assigns. The terms and provisions of this Lease and the respective rights and obligations of the parties hereunder shall be binding upon, and inure to the benefit of, their respective successors and (to the extent assignments are permitted by this Lease) assigns.

27.4. No Third Party Beneficiaries Except as Specified. Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Agent, the Lenders and their respective successors and assigns, each of which shall be deemed to be a third-party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

27.5. Captions; References. The captions in this Lease and in the table of contents are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. References herein to sections and subdivisions without reference to the document in which they are contained are references to this Lease.

27.6. Governing Law. This Lease is being made and delivered in, and shall be governed by and construed in accordance with the laws of, the State of New York,

provided that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

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

[Seal]

WILMINGTON TRUST COMPANY,  
as Owner Trustee

By   
Title: Vice-President

Attest:

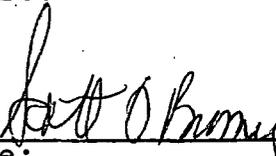
  
Title: Trust Officer

[Seal]

CENTRAL LOUISIANA ELECTRIC COMPANY,  
INC.

By   
Title: VICE PRESIDENT

Attest:

  
Title: SECRETARY

ALL RIGHT, TITLE AND INTEREST OF WILMINGTON BANK AND TRUST COMPANY, OWNER TRUSTEE, AS LESSOR IN AND TO THIS LEASE, AS IT MAY FROM TIME TO TIME BE AMENDED, MODIFIED OR SUPPLEMENTED, HAS BEEN ASSIGNED TO AND IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF THE CONNECTICUT BANK AND TRUST COMPANY, AS AGENT. AN ORIGINAL AND SEVERAL COUNTERPARTS OF THIS AGREEMENT HAVE BEEN EXECUTED, BUT, AS SET FORTH IN SECTION 22, NO SECURITY INTEREST IN THIS LEASE MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL COUNTERPART, WHICH IS IDENTIFIED AS THE COUNTERPART CONTAINING A RECEIPT THEREFOR EXECUTED BY SUCH AGENT ON THIS PAGE.

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

On the 14 day of April, in the year 1981, before me personally came W.J. THEVENOT, to me known, who being by me duly sworn, did depose and say that he resides at ALEXANDRIA LA., that he is VICE PRESIDENT of Central Louisiana Electric Company, Inc., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Josephine Kellejian

[NOTARIAL SEAL]

My Commission expires

JOSEPHINE KELLEJIAN  
NOTARY PUBLIC, State of New York  
No. 31-7206550  
Qualified in New York County  
Term Expires March 30, 1982

STATE OF DELAWARE )  
 ) ss.:  
COUNTY OF NEW CASTLE)

On the 1st day of April, in the year 1981, before me personally came Clark N. Woolley, to me known, who being by me duly sworn, did depose and say that he resides at Wilmington, Delaware, that he is vice president of Wilmington Trust Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Theresa M. Kral

[NOTARIAL SEAL]

My Commission expires

8/3/81

SCHEDULE A

Equipment = 100 Ton Rotary Dump Railroad Coal Cars

Number of  
Units

Serial Numbers

126

RECX 1001

RECX 1002

RECX 2001-RECX 2124

SCHEDULE B

CASUALTY AND TERMINATION VALUES

<u>Casualty Values</u>		<u>Termination Values</u>	
<u>Rent Payment Number</u>	<u>Percent of Purchase Price</u>	<u>Rent Payment Number</u>	<u>Percent of Purchase Price</u>
1	105.0018		
2	108.7422		
3	112.1321		
4	114.9598		
5	117.3982		
6	119.3360		
7	112.7625		
8	113.8525		
9	114.5838		
10	114.8685		
11	106.6734		
12	106.2089		
13	105.4310		
14	104.2897		
15	94.7309		
16	93.0056		
17	91.0505		
18	88.8595		
19	86.5006		
20	83.9928		
21	81.3965		
22	78.6787	22	76.8419
23	75.8012	23	73.8305
24	73.1756	24	70.6884
25	69.6986	25	67.4290
26	66.4950	26	64.0538
27	63.1637	27	60.5769
28	59.7577	28	56.9909
29	56.2257	29	53.2968
30	52.6152	30	49.4868
31	48.8708	31	45.5621
32	45.0439	32	41.5143
33	41.0748	33	37.3447
34	37.0190	34	33.0444
35	32.8871	35	28.6319
36	28.7729	36	24.1643
37	25.0000	37	00.0000

## SCHEDULE C

### ASSUMPTIONS

1. The Closing Date will occur on April 1, 1981 and the Equipment will be deemed to have been placed in service on the Closing Date.

2. The Owner will be entitled to depreciate the Equipment on the basis of a useful life of 12 years under asset Guideline Class 00.25.

3. The depreciation deductions with respect to the Equipment will be computed initially pursuant to the declining balance method using a rate equal to 200% of the straight-line rate and will switch to the sum of the years'-digits method of depreciation as of January 1, 1983.

4. The salvage value of the Equipment for depreciation purposes (after taking into account the reduction permitted by Section 167(f) of the Code) will be zero.

5. The Owner will obtain six months of depreciation on the Equipment for its taxable year ending December 31, 1981 in accordance with the "half-year" convention provided in Reg. § 1.167(a)-11(c)(2)(iii).

6. The Transaction Expenses will be amortizable by the Owner ratably over the initial term of the Lease.

7. The Equipment will qualify as "new Section 38 property"; pursuant to Section 46 of the Code, the Owner will be entitled to the investment tax credit attributable thereto in an amount equal to 10% of the basis for the Equipment described in paragraph 9 below; and such investment tax credit will be allowed in the Owner's taxable year ending December 31, 1981.

8. The Equipment will continue to qualify as "section 38 property" during the 7-year period commencing on the Closing Date.

9. The Owner's basis for the Equipment for the purpose of calculating the investment tax credit and depreciation will be equal to the Aggregate Purchase Price.

10. The Equipment will not be sold, exchanged or otherwise disposed of at any time during the initial term of the Lease.

11. The Owner will recognize no income or gain during the initial term of the Lease as a result of the Lessee's maintaining the Equipment or by reason of Lessee's making additions to or modifications of the Equipment.

12. No costs, fees, charges or expenses paid by the Lessee to any party (other than to the Lessor or the Owner pursuant to the terms of the Lease) will be includible in the gross income of the Owner (unless there is an offsetting deduction available to such party in the taxable year of inclusion or in a prior taxable year on account of the payment of such costs, fees, charges or expenses).

13. The Conditional Sale Indebtedness constitutes debt, and, pursuant to Section 163(a) of the Code, the Owner will be entitled to deduct all amounts paid or accrued as interest thereon.

14. The Conditional Sale Indebtedness will be issued on the Closing Date in the amount of 64 percent of the Aggregate Purchase Price.

15. The Conditional Sale Indebtedness will be repaid in accordance with the terms thereof and of the Conditional Sale Agreement.

16. The Owner's investment will be in the amount of 36 percent of the Purchase Price. In addition, on the Closing Date, the Owner will pay the Transaction Expenses in an amount equal to 1.5% of the Aggregate Purchase Price.

17. The Federal, state and local income tax rates applicable to the Owner on March 1, 1981 will still be in effect on the Closing Date.\*

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\* However, in calculating any adjustment to the Percentages required to be made pursuant to Section 3.5(a) of the Lease, the Federal, state and local income tax rates applicable to the Owner shall be deemed to be the maximum statutory rates applicable to the Owner as of December 31, 1981.