

RECORDATION NO.

13227

AUG 24 1981 -3 25 PM
INTERSTATE COMMERCE COMMISSION

SAUL DUFF KRONOVET

441 LEXINGTON AVENUE

NEW YORK, N.Y. 10017

(212) 687-5600

August 20, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Recordation Office
Interstate Commerce Commission
12th and Constitutional Avenues, N.E.
Room 2303
Washington, D. C. 20423

Gentlemen:

1-236A054

No.

AUG 24 1981

Date

Fee \$

50.00

ICC Washington, D. C.

RECEIVED
AUG 24 3 19 PM '81
FEE OPERATION SR.

We request in this letter recordation of the conditional sale agreement between

New England Merchants National Bank
28 State Street
Boston, Massachusetts 02109 (VENDOR)

and

35 limited partnerships known as:

New England Associates No. 1 (through 35 inclusive)
L.P.
c/o Saul Duff Kronovet
441 Lexington Avenue
New York, New York 10017 (VENDEES)

The conditional sales agreement will be guaranteed by Saul Duff Kronovet, the general partner of each of the limited partnerships.

Please find enclosed one original signed copy and two photocopies of the conditional sale agreement executed by the parties thereto and acknowledged. An attestation of a notary public appears as page 28 of the photocopies.

The transaction involves the sale of one hundred twenty-one used, three-year-old general purpose 50-foot, 6-inch, 70-ton boxcars. The cars bear the railroad numbers NSL 150494 to NSL 150549 inclusively, and NSL 151011 to NSL 151075, inclusively. The cars will be marked on each side, in letters not less than one inch in height, the words, "Ownership subject to documents recorded pursuant to Section 11,303."

Recordation Office
Interstate Commerce Commission
August 20, 1981
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The boxcars will be owned by the partnerships as follows:

<u>Vendee</u>	<u>Boxcars</u>
New England Associates No. 1 L.P.	150494-150512
New England Associates No. 2 L.P.	150513-150515
New England Associates No. 3 L.P.	150516-150518
New England Associates No. 4 L.P.	150519-150521
New England Associates No. 5 L.P.	150522-150524
New England Associates No. 6 L.P.	150525-150527
New England Associates No. 7 L.P.	150528-150530
New England Associates No. 8 L.P.	150531-150533
New England Associates No. 9 L.P.	150534-150536
New England Associates No. 10 L.P.	150537-150539
New England Associates No. 11 L.P.	150540-150542
New England Associates No. 12 L.P.	150543-150545
New England Associates No. 13 L.P.	150546-150548
New England Associates No. 14 L.P.	150549, 151011-151012
New England Associates No. 15 L.P.	151013-151015
New England Associates No. 16 L.P.	151016-151018
New England Associates No. 17 L.P.	151019-151021
New England Associates No. 18 L.P.	151022-151024
New England Associates No. 19 L.P.	151025-151027
New England Associates No. 20 L.P.	151028-151030
New England Associates No. 21 L.P.	151031-151033
New England Associates No. 22 L.P.	151034-151036

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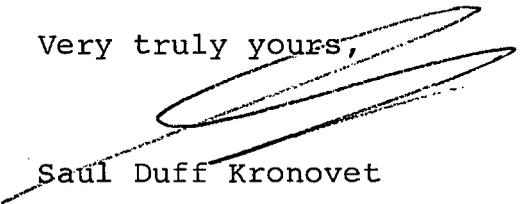
<u>Vendee</u>	<u>Boxcars</u>
New England Associates No. 23 L.P.	151037-151039
New England Associates No. 24 L.P.	151040-151042
New England Associates No. 25 L.P.	151043-151045
New England Associates No. 26 L.P.	151046-151048
New England Associates No. 27 L.P.	151049-151051
New England Associates No. 28 L.P.	151052-151054
New England Associates No. 29 L.P.	151055-151057
New England Associates No. 30 L.P.	151058-151060
New England Associates No. 31 L.P.	151061-151063
New England Associates No. 32 L.P.	151064-151066
New England Associates No. 33 L.P.	151067-151069
New England Associates No. 34 L.P.	151070-151072
New England Associates No. 35 L.P.	151073-151075

Shortly after delivery of the boxcars to the Vendees, the railroad mark of the following boxcars will be changed from "NSL" to "AVR" or "AVL": 150494-150497, 150499-150501, 150503-150508, 150513-150515, 150517, 150519, 150521-150524, 150526, 150527, 150529, 150531-150536, 150538, 150540, 150542-150548, 151012, 151013, 151015, 151017-151020, 151023, 151025-151033, 151035-151037, 151040, 151041, 151043-151046, 151049, 151050, 151052, 151055-151059, 151061-151063, 151065-151069, 151074 and 151075.

Accompanying the conditional sale agreement and this letter of transmittal is the required recordation fee of \$50.00.

Please return to me at the above address the original executed copy as recorded with your office.

Very truly yours,



Saul Duff Kronovet

SDK:jws

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Saul Duff Kronovet
441 Lexington Avenue
New York, N. Y. 10017

8/26/81

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/24/81 at 3:25PM, and assigned re-
recording number(s). 13227

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 13227 FILED 1425

AUG 24 1981 -3 25 PM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of July 28, 1981

—
BETWEEN

NEW ENGLAND MERCHANTS NATIONAL BANK

AND

EACH OF THE LIMITED PARTNERSHIPS
LISTED ON SCHEDULE 1

—
FOR PURCHASE OF 121 70-ton 50' 6" BOXCARS

RECORDATION NO. FILED & RECORDED
, 1981
INTERSTATE COMMERCE COMMISSION

THIS CONDITIONAL SALE AGREEMENT, dated as of July 28, 1981, between NEW ENGLAND MERCHANTS NATIONAL BANK, a national banking corporation with an office at 28 State Street, Boston, Massachusetts 02109 (hereinafter called the "Vendor"), and each of the Delaware Limited Partnerships listed on Schedule 1 hereto (each such partnership is hereinafter called a "Vendee" and collectively referred to as the "Vendees"), each such Vendee to be treated as a separate and independent purchaser of the Units (as defined below) specified next to its name on Schedule 1 hereto.

WITNESSETH:

WHEREAS, the Vendor has title to 121 70-ton 50-foot 6-inch boxcars which bear the railroad numbers NSL150494 to NSL150549 and NSL151011 to NSL151075, both inclusive, (each such boxcar being herein referred to as a "Unit" and or such Units being herein referred to as the "Units of Equipment" or the "Equipment");

WHEREAS, Vendor desires to sell, and each Vendee desires to take possession of and title to those Units of the Equipment specified next to the name of the Vendee on Schedule 1 hereto;

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

ARTICLE 1

Acquisition of the Equipment

The Equipment was previously sold to National Railway Utilization Corporation ("NRUC") pursuant to Conditional Sale Agreements dated May 10 and December 29, 1978 (the "C.S. Agreements"). NRUC is in default under both of the C.S. Agreements and has offered to the Vendor (and other secured lenders and lessors) the right to elect one of the two alternatives described in the NRUC Status Report and Proposed Plan, as modified through June 6, 1980, a copy of which was previously delivered to each Vendee (the "Plan").

It is understood and agreed that on the date the Vendor notifies the Vendees that their Letters of Credit (defined below) are in proper form (the "Closing Date") Vendor will have elected Alternative One (as described in the Plan), as amended by a Conditional Sale Termination Agreement in the form annexed as Exhibit A hereto, with respect to all of the Equipment. Each Vendee is hereby designated as agent of the Vendor for purposes of negotiating the delivery of such Vendee's Units to such Vendee. As agent, each Vendee shall be subject to instructions of the Vendor with respect to such negotiations and shall keep the Vendor fully informed of all delivery arrangements being negotiated with NRUC or any affiliate of NRUC.

Units which are not in service on the Closing Date shall be delivered as soon as reasonably practicable to the Aroostock Valley Railroad at the expense of the Vendor. Any unit which is in service on the Closing Date shall be accepted by the Vendee designated on Schedule 1 hereto (the "Unit's Vendee") as if delivered to such Vendee on the Closing Date. Prior to the Closing Date, the Vendor shall be entitled to all income from operation of the Units prior to the date hereof. On and after the Closing Date, all such income shall be for the account of the Unit's Vendee and the Vendor agrees that any such income received by it with respect to operations on and after the Closing Date shall be for the account of such Vendee. The Vendor shall use its best efforts to collect any such income prior to the remarking of the Units in accordance with Article 5 hereof. The Vendor shall be responsible for all storage, repair and maintenance and delivery charges assessed under the Plan with respect to the period prior to the Closing Date. Each Vendee shall be responsible for all storage, repair and maintenance and delivery charges incurred on and after the Closing Date with respect to its Units, except that the Vendor shall be responsible for delivery charges of Units not in service on the Closing Date.

The Vendor's obligations hereunder shall be subject to the further condition that the Vendor shall have received, on or prior to the Closing Date:

(a) a copy of the Limited Partnership Agreement of each Vendee duly executed by all of its partners;

(b) an opinion of Messrs. Kramer, Levin, Nessen, Kamin & Soll, counsel for the Vendees, dated the Closing Date and addressed to the Vendor, substantially in the form annexed hereto as Exhibit B; and

(c) letters of credit in the form annexed hereto as Exhibit C (the "Letters of Credit") in the amounts specified after each Vendee's name on Schedule 1 hereto.

ARTICLE 2

Conditional Sale by the Vendor to each Vendee

2.1. On the Closing Date, the Vendor hereby will sell to each Vendee, and each Vendee will purchase from the Vendor, the Units specified on Schedule 1 hereto, subject to the terms and conditions of this Agreement. Sale by the Vendor shall be without warranties or representations of any kind, except as provided in Article 3 hereof, and each Vendee hereby accepts "as is" each of its Units (as specified on Schedule 1 hereto). For purposes of securing payment hereunder, the Vendor shall retain full legal title to and a security interest in each Unit until the Unit's Vendee shall have paid in full the Conditional Sale Indebtedness (as defined below), at which time absolute right to the possession of and title to such Units shall pass to and vest in such Vendee without further transfer or action on the part of the Vendor. Any and all replacement parts or additional equipment or facilities installed on or in any Unit shall constitute accessions to such Unit and title to each such replacement part or accession shall be immediately vested in the Vendor and each such replacement part or accession shall be subject to all the terms, reservations and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

2.2. Except as otherwise specifically provided, when and only when the Vendor shall have been paid the Conditional Sale Indebtedness (as defined below), together with interest and all other payments as herein provided, and Vendee's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in such Vendee's Units (hereinafter "its Units") shall pass to and vest in such Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by such Vendee, will (a) execute a bill or bills of sale for such Units transferring its title thereto and property therein to such Vendee, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to such Vendee at its address referred to in Article 21, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or

appropriate in order to make clear upon the public records the title of such Vendee to its Units and (c) pay to such Vendee any money paid to the Vendor pursuant to Article 8 and not theretofore applied as therein provided.

2.3. As additional security for the payment and performance of all obligations of such Vendee under this Agreement, each Vendee hereby assigns and grants to the Vendor a security interest in its Units and in all of such Vendee's right, title, and interest in and to the contract rights, chattel paper, accounts, rentals, fees, charges, income and proceeds arising from or in connection with the use of such Vendee's Units. The security interests granted herein shall be called collectively the "Additional Security".

2.4. Subject to the provisions of Sections 2.5 and 2.6 and Section 16.3 hereof, each Vendee hereby acknowledges itself to be indebted to the Vendor, and hereby promises to pay to the Vendor, at such place as the Vendor may designate, an amount (the "Conditional Sale Indebtedness" or the "Purchase Price") equal to the product of the number of Units being purchased by it hereunder times \$37,000.

2.5. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the eleventh (11th) day after the Closing Date at the rate of 12.00% per annum (except as otherwise provided in Section 2.8). The Conditional Sale Indebtedness shall be paid by such Vendee to the Vendor at the office of the Vendor at 28 State Street, Boston, Massachusetts, in 48 consecutive level quarterly payments of combined principal and interest, payable every three months during the twelve years beginning on the Closing Date, the first such payment to be made one hundred (100) days after the Closing Date (or, if any such date shall not be a business day, on the next succeeding business day), each such combined payment of principal and interest to be in an amount equal to 3.957775% of the Purchase Price. The date on which each installment is due and payable hereunder is herein referred to as a "Payment Date."

The Vendor and each Vendee agree that with respect to the first payment of Conditional Sale Indebtedness, each Vendee shall receive a credit equal to \$600 per Unit purchased under this Agreement, and they further agree that such credit is in full satisfaction of any claims of each Vendee with respect to defects of any kind in any or all of the Units purchased hereunder. In addition, each Vendee shall receive a \$100 credit with respect to each of its Units for purposes of marking such Units in accordance with Article 5 below and such credit shall be applied to the first payment of Conditional Sale Indebtedness.

2.6 Termination. Commencing three years after the Closing Date, each Vendee may terminate its obligation to make payments on the Conditional Sale Indebtedness with respect to all scheduled payments thereafter, provided:

(a) All quarterly payments required to be made under Section 2.5 hereof have been paid through the date of such termination;

(b) The Vendor has received at least six months notice from such Vendee of its intention to terminate on the date which is eleven (11) days after the third anniversary of the Closing Date, its obligations hereunder to make payments on the Conditional Sale Indebtedness; or the Vendor has received at least one year's notice with respect to such a termination after such date;

(c) Such Vendee has assigned to the Vendor all of its right, title and interest in and to all of the Units, effective as of the termination date specified in such Vendee's notice (the "Termination Date"), pursuant to recorded documentation which is in all respects in form and substance reasonably satisfactory to the Vendor;

(d) Aroostook Valley Railroad or another railroad within 200 miles of the Aroostook Valley Railroad has agreed with the Vendor in writing to store any and all of such Vendee's Units for \$1 per day (per Unit) through July 28, 1989 or at least two years, whichever is longer; and

(e) Such Vendee shall indemnify and hold harmless the Vendor from and against any liability relating to any of the Equipment arising prior to the Termination Date.

Notwithstanding any such termination, such Vendee shall be responsible for all quarterly payments of the pro rata portion of the Conditional Sale Indebtedness allocable to any of its Units until such Unit has been delivered to the Vendor to a railroad site designated by the Vendor within 100 miles of the Aroostook Valley Railroad (if the Vendor has not designated such a site within at least two months prior to termination, then any railroad site within 100 miles of the Aroostook Valley Railroad shall be satisfactory) in a condition "suitable for loading," as that phrase is generally understood in the United States railroad freight industry and, when so delivered to the Vendor, such Unit is free and clear of all Liens (as defined in Section 3.1 below).

2.7. Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

2.8. Each Vendee will pay interest at the rate of 3% above the rate publicly announced from time to time by the Vendor as its prime rate of interest (the "Prime Rate"), to the extent legally enforceable, on all amounts remaining unpaid by such Vendee after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding.

2.9. The term "business day", as used herein, means calendar days, except Saturdays, Sundays, holidays and any other day on which banking institutions in Boston, Massachusetts are authorized to remain closed.

2.10. The Conditional Sale Indebtedness may be prepaid in whole, or in part, any time, from time to time, without premium or penalty. Any partial payment or prepayment of the Conditional Sale Indebtedness shall be applied to the quarterly installments thereof due thereafter in the inverse order of the maturity of such installments. Promptly after any partial prepayment the Vendor will furnish to each Vendee a revised schedule of payments of principal and interest thereafter to be made.

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

ARTICLE 3

Representations, Warranties and Covenants

3.1. The Vendor hereby represents and warrants to each Vendee that:

(a) It has, and on the Closing Date will have, good title to such Vendee's Units free and clear of all liens, charges, encumbrances and security interests (hereinafter referred to as a "Lien" or "Liens"). Since each Vendee has agreed that it will accept its Units "as is", no warranty or representation is herein made by the Vendor with respect to the condition of such Units.

(b) The Vendor has the right to deliver possession of and title to each Vendee's Units to such Vendee on the terms set forth in this Agreement.

(c) This Agreement has been duly authorized and has been duly executed and delivered by the Vendor and constitutes the legal, valid and binding obligation of the Vendor enforceable in accordance with its terms, except as limited by (i) applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting the enforcement of creditors' rights generally at the time in effect and (ii) judicial limitations upon the specific performance of certain types of obligations.

3.2. Each Vendee hereby represents and warrants that:

(a) It is a limited partnership duly organized and validly existing under the laws of the State of Delaware, and has the power and authority to enter into and perform its obligations under its Limited Partnership Agreement and, acting pursuant thereto, this Agreement.

(b) Its Limited Partnership Agreement has been duly executed and delivered by all the Partners thereof.

(c) Its execution and delivery of this Agreement are not, and its performance of its obligations under this Agreement will not be, inconsistent with its Limited Partnership Agreement, do not and will not contravene any law, governmental rule or regulation of the United States of America or the State of Delaware or any judgment or order applicable to it, and do not and will not contravene the provisions of, or constitute a default under, any indenture, mortgage, contract or other instrument to which it is a party or by which it is bound or require action in respect of or by, any governmental authority of the United States of America or the State of Delaware or other organization or person, except such as have been obtained, given or accomplished.

(d) This Agreement has been duly authorized and has been duly executed and delivered by it acting pursuant to its Limited Partnership Agreement and constitutes the legal, valid and binding obligation of the Vendee enforceable in accordance with its terms, except as limited by (i) applicable bankruptcy, reorganization, insolvency,

moratorium or similar laws affecting the enforcement of creditors' rights generally at the time in effect and (ii) judicial limitations upon the specific performance of certain types of obligations.

(e) No action, proceeding or investigation is pending or, to its knowledge, threatened against it, the adverse determination of which, either in any case or in the aggregate, would materially affect the validity of this Agreement, its ability to fulfill its obligations hereunder, or the rights of the Vendor hereunder.

(f) This Agreement, when duly filed and recorded with the Interstate Commerce Commission pursuant to Section 11,303 of the Interstate Commerce Act, will protect the Vendor's interest in and to the Equipment, and no other filing, recording or deposit with any other federal, state or local government is necessary in order to protect the first lien ownership and first security interests of the Vendor in and to the Equipment in the United States of America; and the financing statements necessary to perfect the Vendor's first security interest in the Additional Security will be duly recorded and filed with the appropriate Secretaries of State and all appropriate city and town clerks, and, when filed, no other filing or recording will be necessary to perfect the Vendor's first security interest in the Additional Security.

3.3. Each Vendee covenants and agrees that:

(a) From and after two months after the Closing Date and so long as the Conditional Sale Indebtedness shall be outstanding and unpaid, it will cause its Units to be maintained in condition suitable for loading.

(b) So long as the Conditional Sale Indebtedness shall be outstanding and unpaid, it will not create or incur any indebtedness for borrowed money (except for the purpose of making payments under this Agreement).

3.4. The Vendor covenants and agrees that the Letters of Credit with respect to a Vendee will be drawn down only to the extent of Conditional Sale Indebtedness of such Vendee which is due and payable and only in the event of a default by such Vendee under Article 16 hereof. At least annually, the Vendor will notify each institution issuing any of the Letters of Credit as to the maximum remaining liability thereunder.

ARTICLE 4

Taxes

All payments to be made by each Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state or federal taxes (other than income, gross receipts, excess profits and similar taxes), assessments, license fees, charges, fines or penalties of any kind (herein collectively called "Taxes" or "Assessments") hereafter levied or imposed upon or measured by this Agreement, or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which Taxes or Assessments such Vendee assumes and agrees to pay on demand in addition to the Purchase Price for its Units. Each Vendee will also pay promptly all Taxes or Assessments which may be imposed upon its Units or for the use or operation thereof by such Vendee or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times each of its Units free and clear of all Taxes or Assessments which might in any way affect the title of the Vendor or result in a Lien upon any Unit, except a Lien relating to Taxes or Assessments not due and payable; provided, however, that such Vendee shall be under no obligation to pay any Taxes or Assessments so long as it is contesting such Taxes or Assessments in good faith and by appropriate legal proceedings and the non-payment thereof does not, in the opinion of the Vendor, materially and adversely affect the property or rights of the Vendor hereunder. If any such Taxes or Assessments with respect to any of the Units shall have been charged or levied against the Vendor directly and paid by the Vendor, the Unit's Vendee shall reimburse the Vendor on presentation of an invoice therefor and any sums of money so paid by the Vendor shall be secured by and under this Agreement as a Lien on such Units; and provided, further, that such Vendee shall be under no obligation to reimburse the Vendor for any sums of money so paid, nor shall any such sums of money so paid be secured by and under this Agreement as a Lien on such Units, unless the Vendor shall, by at least thirty (30) days' written notice given to such Vendee of its intention to make such payment, afford a reasonable opportunity to such Vendee to contest in good faith any such Taxes or Assessments which may have been so charged or levied against the Vendor.

ARTICLE 5

Marking of Equipment

Until its Conditional Sale Indebtedness is paid in full, each Vendee will cause each of its Units to be kept plainly, distinctly, permanently and conspicuously marked on each side thereof in letters not less than one inch in height the words "OWNERSHIP SUBJECT TO DOCUMENTS RECORDED PURSUANT TO SECTION 11,303 OF THE INTERSTATE COMMERCE ACT," or other appropriate words designated by the Vendor, to indicate the limited interest of such Vendee, or any entity managing or using its Units therein, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Vendor to the Equipment and its rights under this Agreement. Such marking shall, except for \$100 credited to each Vendee in respect of each Unit at the Closing, shall be made at the expense of each of the Vendees. After initial delivery of its Units to the Vendee, such Vendee or its agents will not permit any Unit to be placed in operation or exercise any control or dominion over the same until such marking shall have been made thereon and will cause each Unit to be kept numbered with the identifying number thereof (as specified on page 1 hereof) and will not change or permit the change of numbers (exclusive of railroad marking, e.g. NSL) of any such Units except with the consent of the Vendor and in accordance with a statement of new numbers to be substituted therefor, which consent and statement previously shall have been filed with the Vendor by such Vendee and filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

ARTICLE 6

Maintenance and Repair

Each Vendee will at all times maintain the Equipment or cause it to be maintained in condition which is suitable for loading and in compliance with the standards from time to time in effect under the Interchange Rules of the Association of American Railroads for use in interchange without cost or expense to the Vendor. Those Units which are not in condition suitable for loading on the Closing Date shall be repaired by such Vendee at its expense and promptly restored to a condition suitable for loading.

ARTICLE 7

Insurance

At all times while this Agreement is in effect, each Vendee, at its own expense, shall keep its Units adequately insured against all risks, physical loss and damage and public liability insurance in an insurance company or companies approved by the Vendor for an amount not less than \$500,000, for each person and \$3,000,000 for each occurrence. The policies shall name such Vendee and the Vendor as insureds and/or as loss payees as their interests may appear and shall specify that such policies cannot be cancelled or modified in any respect material to the interest of the Vendor except on at least thirty (30) days' prior written notice to the Vendor. The policies of insurance, certified copies thereof or certificates of coverage satisfactory to the Vendor shall be deposited with the Vendor. In case such Vendee shall fail to keep such Units so insured and to deposit policies, certified copies thereof or certificates of coverage as aforesaid, the Vendor may itself insure such Units, and in this event such Vendee shall be obligated to repay to the Vendor the amounts of premiums paid therefor with interest thereon at a rate which is three per cent (3%) above the Prime Rate in effect from time (to time to the extent legally enforceable) from the time of notice to such Vendee of such premium payment until repaid, which notice to such Vendee shall be made by delivering to the Vendee a certified copy of such policy or policies of insurance, or certificates of coverage giving the terms of coverage of such policies in reasonable detail. So long as no Event of Default or event which with notice or the passage of time or both would become an Event of Default has occurred and is continuing, the Vendor shall pay over to such Vendee the proceeds received by the Vendor from any insurance policy as to which the Vendor is named loss payee.

ARTICLE 8

Lost, Stolen or Destroyed Units

8.1. In the event that any Unit shall be worn out, lost, stolen, destroyed, irreparably damaged, requisitioned for use or otherwise taken or rendered unfit for use by condemnation from any cause whatsoever, including such Units which have been in Bad Order (as such term is understood by the railroad industry in the

United States) for a continuous period in excess of six (6) months, during the continuance of this Agreement (such as an occurrence being hereinafter referred to as a "Casualty Occurrence"), the Unit's Vendee shall promptly and fully inform the Vendor in regard thereto. On the Payment Date occurring not less than sixty (60) days following the date of such information, such Vendee shall at its election, either (A) pay to the Vendor an amount equal to the sum of (i) the amount of the regular installment of principal and interest due with respect to the Conditional Sale Indebtedness allocable to such Unit or Units, and (ii) an amount which bears the same relation to the then unpaid principal amount of the Conditional Sale Indebtedness (after giving effect to the payment pursuant to clause (i) above, the payment of the regular installment of principal and interest due on such Payment Date with respect to the Conditional Sale Indebtedness allocable to all other Units, and the prepayment of the Conditional Sale Indebtedness due on such date pursuant to the terms of Article 2 hereof) as the original Purchase Price of the Unit or Units suffering such Casualty Occurrence bears to the aggregate original Purchase Price of all such Vendee's Units immediately prior to such Casualty Occurrence, or (B) replace each such Unit with a Unit which the Vendor agrees is a reasonably comparable Unit. In the event that such Vendee elects to pay to the Vendor the amount specified in Clause (A) above, absolute right to the possession of and title to such Unit shall pass to and vest in such Vendee without further transfer or action on the part of the Vendor, except that the Vendor, if requested by such Vendee, will execute and deliver to such Vendee, at the expense of such Vendee, an appropriate instrument confirming such passage to such Vendee of all the Vendor's right, title and interest in such Unit, in recordable form, in order that such Vendee may make clear upon the public records the title of such Vendee in and to such Unit.

8.2. In the event a Vendee elects to replace a Unit or Units suffering a Casualty Occurrence, title to such replacement unit or units shall be taken and vested in the name of the Vendor, by proper bill of sale, free from all liens, and such unit shall thereupon immediately come under and be subject to all of the terms and conditions of this Agreement as though one of the original Units accepted hereunder, and such Vendee will cause each such replacement unit to be marked and numbered in the same manner as hereinabove provided with respect to the Unit replaced thereby. Such Vendee agrees to furnish the Vendor four executed counterparts of

(1) a certificate of an authorized officer of such Vendee certifying that such replacement Unit or Units is a reasonably comparable Unit and has been marked and numbered as required by the provisions of Article 5 and certifying the value thereof; and

(2) an opinion of counsel for such Vendee that title to such replacement unit or units is vested in the Vendor free and clear of or superior to all Liens of record other than the lien created by this Agreement; that such Unit or Units has come under and become subject to this Agreement; and that a supplement to this Agreement providing for inclusion of such replacement Unit or Units under the terms of this Agreement has been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 11,303 of the Interstate Commerce Act.

ARTICLE 9

Compliance with Laws and Rules

During the term of this Agreement each Vendee will comply, or cause its agents to comply, in all material respects with all laws of the jurisdictions in which operations involving the Equipment may extend and with the interchange rules of the Association of American Railroads and with all lawful rules of the Interstate Commerce Commission, Department of Transportation (Federal Railroad Administration) and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit of the Equipment, such Vendee will conform, or cause any such agent to conform, therewith, at the expense of such Vendee, and will

maintain the same, or cause the same to be maintained, in proper condition for operation under such laws and rules; provided, however, that such Vendee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, materially and adversely affect the property or rights of the Vendor hereunder.

ARTICLE 10

Reports and Inspections

10.1. On or before March 31 in each year commencing in the calendar year 1982, such Vendee will furnish, or cause an agent of such Vendee to furnish, to the Vendor an accurate statement showing as at the preceding December 31, (i) the amount, description and railroad numbers of such Vendee's Units then covered hereby, (ii) the amount, description and numbers of all Units that may have been worn out, lost, destroyed or irreparably damaged, whether by accident or otherwise, during the preceding calendar year, (iii) the numbers of the Units then undergoing repairs and awaiting repairs, and (iv) such additional information regarding the condition and state of repair of the Units as the Vendor may reasonably request. The Vendor shall have the right, by its agents, to inspect the Units and such Vendee's records with respect thereto, whether kept by such Vendee or any agent of the Vendee on behalf of the Vendee, from time to time and at such times as may be reasonably requested by the Vendor.

10.2. Each Vendee will furnish to the Vendor seven (7) days' written notice prior to instituting any action to contest (i) taxes, assessments, license fees, charges, fines or penalties as provided in Article 4 hereof, (ii) the validity or application of laws or rules as provided in Article 9 hereof, or (iii) claims upon the Units as provided in Article 12 hereof.

ARTICLE 11

Possession and Use

Each Vendee, so long as no Event of Default shall have occurred under or be continuing under this Agreement, shall be entitled, directly or through any agent, lessee or assignee, to the possession and control of its Units and the use thereof;

provided that the rights of any agent, lessee or assignee of the Vendee with respect to any of such Vendee's Units shall be subject and subordinate to the rights of the Vendor hereunder.

ARTICLE 12

Prohibition Against Liens

12.1. Each Vendee will pay or satisfy or discharge any and all sums claimed by any party from, through or under such Vendee which, if unpaid, might become a Lien upon any of the Units; provided, however, that such Vendee shall not be required to pay or discharge any such Lien so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, materially and adversely affect the property or rights of the Vendor hereunder. Any amounts paid by the Vendor in discharge of Liens upon any of the Units shall be secured by and under this Agreement and shall be payable by such Vendee upon demand.

12.2. This covenant will not be deemed breached by reason of Liens for Taxes or Assessments not due and delinquent or being contested in accordance with Article 4 hereof, or undetermined or inchoate materialmen's, mechanics', workmen's or other like Liens arising in the ordinary course of business and in each case not delinquent.

ARTICLE 13

Indemnities and Assumption of Liability

13.1. Each Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to and a security interest in such Vendee's Units, and the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of such Units, or any accident in connection with the operation, use, condition, possession, storage or return of any of such Units resulting in damage to property or injury or

death to any person during the period when title thereto remains in the Vendor or prior to the transfer of title to such Units by the Vendor pursuant to any of the provisions of this Agreement; provided, however, that this covenant of indemnity shall not cover any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Vendor. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Conditional Sale Indebtedness, the transfer of title to such Units as provided in Article 2 hereof, or the termination of this Agreement in any manner whatsoever; provided, however, that, except as provided in Section 2.6., such Vendee shall not be responsible for any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of the ownership, operation, use, condition, possession or storage of any of such Units after the termination of this Agreement and the delivery of such Unit to the Vendor pursuant to and in accordance with Section 2.6.

13.2. Each Vendee will bear the risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any or all of its Units.

ARTICLE 14

Patent Indemnities

Each Vendee agrees to indemnify, protect and hold harmless the Vendor from and against any and all liabilities, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the construction, use or operation of any of such Vendee's Units or any design which infringes or is claimed to infringe on any patent or other right. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the Conditional Sale Indebtedness, the transfer of title to the Units as provided in Article 2 hereof, or the termination of this Agreement in any manner.

ARTICLE 15

Assignments

15.1. Except as provided in Article 11 hereof, each Vendee will not sell, assign, transfer or otherwise dispose of its rights

under this Agreement, nor transfer title of any Unit to any other firm, person or corporation without first obtaining the written consent of the Vendor (which consent shall not be unreasonably withheld) to such sale, assignment or transfer.

15.2. All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by each Vendee may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall relieve the Vendor from any of the obligations of the Vendor to sell and deliver the Equipment in accordance herewith or to respond to its agreements contained in this Agreement, or relieve any Vendee of its obligations to the Vendor hereunder or any other obligation which, according to its terms and context, is intended to survive an assignment.

15.3. Upon any such assignment, either the assignor or the assignee shall give written notice to each Vendee whose Unit or Units have been assigned, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all or a portion, as the case may be, of the assignor's rights, benefits and advantages under this Agreement including all of the Vendor's right, title and interest in and to such Unit or Units, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by such Vendee of the notification from the Vendor of any such assignment, all payments thereafter to be made by such Vendee hereunder shall, to the extent so assigned, be made to or for the account of the assignee in such manner as it may direct.

15.4. Each Vendee agrees for the benefit of the Vendor that the rights of the Vendor to the entire unpaid Conditional Sale Indebtedness of such Vendee, together with interest thereon, as well as any other rights under this Agreement shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of any third party with respect to any of such Vendee's Units or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity of any third party, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to such Vendee by any third party. Any and all such obligations, howsoever arising, shall be and remain enforceable by such Vendee against and only against such third party.

ARTICLE 16

Defaults

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

(a) A Vendee shall fail to pay in full any sum payable by such Vendee as herein provided in respect of its Conditional Sale Indebtedness or interest thereon and such default shall continue for seven (7) business days after notice; or

(b) A Vendee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the such Vendee's Units, on its part to be kept or performed (other than the failure to make payments as provided in subparagraph (a) hereinabove or the unauthorized transfer or assignment of any such Unit or Units as provided in subparagraph (e) hereinbelow) or to make provision reasonably satisfactory to the Vendor for such compliance; or

(c) Any material representation or warranty made by a Vendee in this Agreement or in any document or certificate furnished pursuant hereto shall prove to have been incorrect in any material respect when such representation or warranty was made or given; or

(d) A Vendee shall make an assignment for the benefit of creditors or admit in writing its inability to pay its debts generally as they become due; or an order, judgment or decree shall be entered adjudicating such Vendee bankrupt or insolvent and such order, judgment or decree shall remain unstayed and in effect for more than 60 days; or such Vendee shall petition or apply to any tribunal for the appointment of a trustee or receiver of such Vendee, or of any substantial part of the assets of such Vendee, or commence any proceedings relating to such Vendee under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect; or any such petition or application shall be filed, or any

such proceeding shall be commenced, against such Vendee and such Vendee by any act shall indicate its approval thereof, consent thereto or acquiescence therein, or an order, judgment or decree shall be entered appointing any such trustee, receiver or liquidator, or approving the petition in any such proceedings and such order, judgment or decree shall remain unstayed and in effect for more than sixty (60) days; or

(e) A Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any of its Units; or

then, at any time after the occurrence of such an event of default ("Event of Default") the Vendor may avail itself of any of the remedies provided in Article 17 below and may draw down the full remaining amount under the Letters of Credit for purposes of collecting the amounts provided in Section 16.3 below.

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

16.3 Notwithstanding anything to the contrary in this Agreement, the maximum liability of any Vendee under this Agreement shall be to pay (i) all scheduled payments of Conditional Sale Indebtedness until the later of three (3) years from the eleventh day after the Closing Date or the date on which its Boxcars are returned to the Vendor pursuant to Section 16.1, (ii) all reasonable expenses incurred by the Vendor in collecting such payments, or interest thereon, or in recovering the Vendee's Units, including without limitation expenses described in Section 17.7 below, (iii) any reasonable costs of repairing its Boxcars to a condition suitable for loading, (iv) any obligations arising under Articles 4, 13 and 14 with respect to the period prior to the return of all Boxcars to the Vendor and (v) interest at the rate of three per cent (3%) above the Prime Rate (to the extent legally enforceable) on any overdue scheduled payment of Conditional Sale Indebtedness from the date it became overdue and on any payment by the Vendor with respect to clauses (ii) through (iv), inclusive, from the date of such payment.

ARTICLE 17

Remedies

17.1. If a Vendee shall have defaulted as hereinbefore provided, then at any time thereafter during the continuance of such default, the Vendor, to the extent not prohibited by any mandatory requirements of law, may, upon such further notice, if any, as may be required for compliance with any mandatory requirements of law applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of any or all of such Vendee's Units, without liability to return to such Vendee any sums theretofore paid and free from all claims whatever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of such Vendee or any agent of such Vendee and for such purpose may enter upon such Vendee's or any such agent's premises where any such Unit or Units may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of such Vendee, any such agent or any affiliate thereof, with or without process of law.

17.2. In case the Vendor shall rightfully demand possession of any Unit or Units in accordance with this Agreement and shall designate a reasonable point or points for the delivery of any such Unit or Units to the Vendor, such Vendee shall, at its own expense forthwith and in the usual manner, cause any such Unit to be moved to such point or points on such lines or premises of any lines of railroad or other premises approved by the Vendor for the delivery of such Unit to the Vendor and shall there deliver such Unit, or cause it or them to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep any such Unit on any of the lines of any affiliate or agent of such Vendee or of any successor agent or any affiliate thereof or premises of any such affiliate or agent or on any lines of railroad or other premises convenient to such Vendee until the Vendor shall have leased, sold or otherwise disposed of the same at no cost or expense to the Vendor.

17.3. This agreement to deliver any such Unit and to furnish facilities for its storage as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against such Vendee or any such affiliate or agent requiring specific performance hereof. Such Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages

of whatever nature in connection with any retaking of any Units in any reasonable manner.

17.4. If a Vendee shall make default as hereinbefore provided, then at any time thereafter during the continuance of such default, the Vendor (after retaking possession of such Vendee's Units as hereinbefore in this Article 17 provided) may at its election, to the extent not prohibited by any mandatory requirements of law then in force and applicable thereto, (i) retake possession of any such Unit and retain any such Unit as its own and make such disposition thereof as the Vendor shall deem fit (including, if the Vendor so elects, the leasing of any Unit thereof on such terms as it shall deem fit), and in such event all such Vendee's rights in any such Unit will thereupon terminate and, to the extent not prohibited by any mandatory requirements of law, all payments theretofore made by such Vendee may be retained by the Vendor as compensation for the use of any such Unit by such Vendee; or (ii) with or without retaking possession of any Unit thereof sell any such Unit free from any and all claims of such Vendee or of any other party claiming by, through or under such Vendee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine, all subject to and in compliance with any mandatory requirements of law then in force and applicable to such sale, and the proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in taking possession of, removing, storing and selling any such Unit shall be credited first to interest, and then to principal due to the Vendor under the provisions of this Agreement. Written notice of the Vendor's election to retain any such Unit for its own use may be given to such Vendee by telegram or registered mail addressed to the Vendee as provided in Article 21 hereof, at any time during a period of sixty (60) days after the Event of Default and, if no such notice shall have been given, the Vendor shall be deemed to have elected to sell any such Unit in accordance with the provisions of this Article 17.

17.5. To the extent permitted by any mandatory requirements of law then in force and applicable thereto, any sale hereunder may be held or conducted at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the Unit or Units to be sold, and in general in such manner as the Vendor may determine in compliance with any such requirements of law; provided, however, that such Vendee shall be given written notice of such sale as provided in any such requirements, but in any event not less than ten (10) days

prior thereto, by telegram or registered mail addressed to such Vendee as provided in Article 21 hereof. To the extent not prohibited by any such requirements of law, the Vendor may bid for and become the purchaser of any such Unit so offered for sale without accountability to such Vendee (except to the extent of surplus money received as provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to the extent not prohibited as aforesaid to have credited on account thereof all sums due to the Vendor from such Vendee hereunder.

17.6. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others.

17.7. Each Vendee will pay all reasonable expenses, including without limitation all costs relating to locating, taking possession of and returning its Units to the Vendor, all storage costs, and any insurance, taxes or other costs assessed against the Vendor, and attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement with respect to such Vendee. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

17.8. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to the Vendor under the provisions of this Agreement, the Vendee who was (or whose Unit or Units were) the subject of such remedies shall pay the amount of such deficiency to the Vendor upon demand, and, if such Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover judgment therefor against such Vendee.

17.9. In the event of the assignment of interests hereunder to more than one assignee, each such assignee shall be entitled to exercise all rights of the Vendor hereunder in respect of the Unit or Units assigned to such assignee, irrespective of any action or failure to act on the part of any other assignee.

ARTICLE 18

Applicable State Laws

Any provision of this Agreement prohibited by any applicable law of any state, or which by any applicable law of any state would convert this Agreement into any instrument other than an agreement of conditional sale, shall as to such state be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any applicable state law may be waived, they are hereby waived by such Vendee to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

ARTICLE 19

Extension Not a Waiver

No delay or omission in the exercise of any power or remedy herein provided or otherwise available to the Vendor shall impair or affect the Vendor's right thereafter to exercise the same. Any extension of time for payment hereunder or other indulgence duly granted to a Vendee shall not otherwise alter or affect the Vendor's rights or the obligations of such Vendee hereunder. The acceptance by the Vendor of any payment after it shall have become due hereunder shall not be deemed to alter or impair the obligations of such Vendee or the Vendor's rights hereunder with respect to any subsequent payments or default herein.

ARTICLE 20

Recording

Each Vendee will cause this Agreement and any assignments hereof or of any interests herein, and any amendments or supplements hereto or thereto, and the related bill of sale delivered on the Closing Date to be filed and recorded with the Interstate Commerce Commission in accordance with Section 11,303 of the Interstate Commerce Act. Such Vendee will also cause any financing statement with respect to this Agreement to be filed and recorded in the form and manner required by law in all offices and places necessary to perfect the lien on and security interest in its Units and the Additional Security. Such Vendee

will from time to time do and perform any other act and will execute, acknowledge, deliver, file and record and deposit any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to such Vendee's Units, its security interest in the Additional Security and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement. Such Vendee will promptly furnish to the Vendor certificates or other evidences of such filing and recording and depositing satisfactory to the Vendor.

ARTICLE 21

Notices

Except as otherwise provided, any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed by certified or registered mail to it at the following specified addresses:

(a) to each Vendee at:

Saul Duff Kronovet, General Partner
441 Lexington Avenue
New York, New York 10017

(b) to the Vendor at:

New England Merchants National Bank
28 State Street
Boston, Massachusetts 02109

Attention: Equipment Financing Department

or at such other address as may have been furnished in writing by such party to the other party to this Agreement. Any notice hereunder to any assignee of the Vendor shall be deemed to be properly served if delivered or mailed to such assignee at such address as may have been furnished in writing to the Vendee (affected by such assignment) by such assignee.

ARTICLE 22

Commission

The Vendor acknowledges that it is obligated to pay a commission in the amount of two per cent (2%) of the aggregate Purchase Price of the Equipment to Charles P. Turnburke with respect to the consummation of the sale of the Equipment in accordance with this Agreement. The Vendor and each Vendee represent and warrant to each other that no other commissions of any kind are payable with respect to such sale.

ARTICLE 23

Article Headings

All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement. Reference to an "Article" or "Articles" means an article or articles of this Agreement.

ARTICLE 24

Effect and Modification of Agreement

Except as herein otherwise provided, this Agreement exclusively and completely states the rights of the Vendor and each Vendee with respect to each Vendee's Units and supersedes all other agreements, oral or written, with respect to such Units. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and each Vendee affected thereby.

ARTICLE 25

Law Governing

The terms of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts; provided, however, that the parties shall be entitled to all rights conferred by Section 11,303 of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any,

and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 26

Execution

This Agreement may be simultaneously executed in any number of counterparts numbered consecutively in ascending order, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart, but only the counterpart that is labeled "Counterpart No. 1" shall be deemed to be the original for purposes of perfection of a security interest and shall be the only counterpart which may be transferred and given to transfer the rights of the Vendor hereunder. Although this Agreement is dated as of the day, month and year first above written for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the Vendor, pursuant to due corporate authority, and each Vendee, pursuant to its Limited Partnership Agreement, have caused this instrument to be executed in their respective names by their respective duly authorized officers or representatives and, with respect to the Vendor, its seal to be hereunto affixed and duly attested, all as of the date first above written.

NEW ENGLAND MERCHANTS NATIONAL BANK

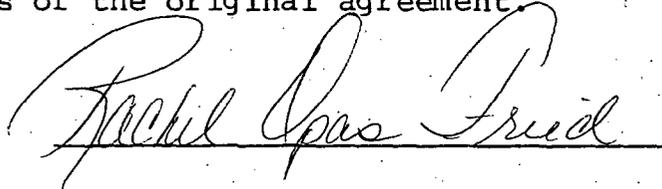
By: 
Title: VP

Each Limited Partnership Listed
on Schedule 1 hereto

By: 
Title: Sole General Partner
for each such
Limited Partnerships

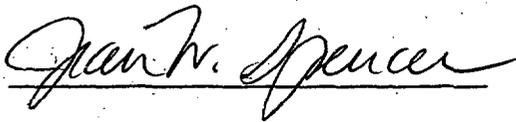
STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

The undersigned, a notary public licensed under the laws of the State of New York, hereby certifies that (s)he has compared the attached copy of the conditional sale agreement dated as of July 28, 1981 between New England Merchants National Bank and the 35 limited partnerships named in Schedule I thereto with the original executed copy of said agreement, and further certifies that the attached copy is a true and correct copy in all respects of the original agreement.



RACHEL OPAS FRIED
NOTARY PUBLIC, State of New York
No. 31-4625707
Qualified in New York County
Commission Expires March 30, 1982

Sworn to before me this
19th day of August, 1981



JEAN W. SPENCER
Notary Public, State of New York
No. 31-4698715
Qualified in New York County
Commission Expires March 30, 1983

CONDITIONAL SALE TERMINATION AGREEMENT

THIS CONDITIONAL SALE TERMINATION AGREEMENT ("Termination Agreement") dated as of the 28th day of July, 1981, by and between NEW ENGLAND MERCHANTS NATIONAL BANK, a national banking association (the "Bank") and NATIONAL RAILWAY UTILIZATION CORPORATION, a South Carolina corporation ("NRUC"),

W I T N E S S E T H:

WHEREAS, NRUC purchased 121 new seventy-ton, five-foot six-inch type XM railroad boxcars under Conditional Sale Agreements dated May 10 and December 29, 1978 (the "Conditional Sale Agreements") from the Bank or its assignor, said boxcars bearing railroad marking numbers NSL 151011 through NSL 151075 inclusive and NSL 150494 through NSL 150549 inclusive (collectively the "Cars");

WHEREAS, the Bank has previously elected Alternative Two of the NRUC Status Report and Proposed Plan as modified to June 6, 1980, a copy of which is attached hereto as Exhibit A (the "Plan"), as to the Cars; and

WHEREAS, the Bank and NRUC now desire to terminate the Conditional Sale Agreements pursuant to the terms and conditions of Alternative One of the Plan, as amended hereby;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein and in the Plan contained and of the payment by NRUC to the Bank of \$10 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Bank hereby elects Alternative One of the Plan subject to the modifications herein.

2. NRUC shall, as promptly as possible, return all of the Cars to such locations as the Bank or its assignees may designate (a "Delivery Point") in written movement instructions. NRUC shall notify the Bank and the assignee of the Bank specified on Exhibit B hereto as to each of the Cars (the "Assignee" or "Assignees") immediately upon delivery of each of the Cars to a Delivery Point.

3. The Bank unconditionally releases NRUC from any and all liabilities and obligations accrued and accruing under the Conditional Sale Agreements and any other agreements relating to the Cars except that the obligation to return the Cars shall be continuing; providing, however, that such release shall not release or relate to any obligations, agreements or undertakings of NRUC under this Termination Agreement.

4. (a) NRUC covenants and agrees to pay to the Bank and the Assignees all income or revenue attributable to and collected for each Car for the period of time commencing April 1, 1980, and terminating upon delivery of such Car to a Delivery Point less the sum of (i) \$3 per Car per day for all Cars until the execution of this Termination Agreement and, thereafter, \$3 per Car per day for each day the Bank or the Assignees receives income or revenue with respect to such Car pursuant to paragraph 3; (ii) all movement or repair charges and expenses attributable to such Car for the period beginning April 1, 1980, and terminating upon delivery of such Car to a Delivery Point and actually paid by NRUC; and (iii) all storage charges and costs attributable to such Car for the period commencing April 1, 1980 (for Cars not stored with NRUC or any of its affiliates) and terminating upon delivery of such Car to a Delivery Point and actually paid by NRUC.

(b) The income or revenue less the above discussed items shall be payable quarterly commencing July 15, 1981.

5. NRUC shall issue in favor of the Bank, upon and subject to approval of the Interstate Commerce Commission (which approval shall promptly be sought by NRUC at NRUC's sole cost and expense) 27,539 shares of NRUC's common stock,

6. NRUC represents and warrants to the Bank that the Cars shall be in interchange or better condition at the time of delivery.

7. NRUC shall maintain on each Car the insurance required under the Conditional Sale Agreements until the date the Car is delivered to a Delivery Point and the Bank and the Assignee with respect to such Car are notified of such delivery.

8. NRUC, upon receipt of written movement instructions, shall forthwith direct every agent or manager of any Car to deliver all such Cars to a Delivery Point.

9. NRUC shall cooperate with the Bank and the Assignees in executing and recording any documents and doing any acts which the Bank and the Assignees reasonably believe necessary to carry out the purposes and intentions of this Termination Agreement. NRUC shall take such action as is necessary to cause the return of the Cars by waybill collect to the Bank's account to the Delivery Point.

10. NRUC irrevocably assigns to the Bank all of its right, title and interest in and to all credits, claims or causes of action NRUC now has or may hereafter acquire against any party or entity by reason of or in any manner related to the Cars (including but not limited to damage credits) and shall cooperate with and assist the Bank and the Assignees with respect to prosecuting or enforcing any such claims or causes of action.

IN WITNESS WHEREOF, the Bank and NRUC have caused this Termination Agreement to be executed on the day and year first written above.

NATIONAL RAILWAY UTILIZATION CORPORATION

By: C. D. Viner
Title: VP

NEW ENGLAND MERCHANTS NATIONAL BANK

By: _____
Title: _____

New England Merchants National Bank
28 State Street
Boston, Massachusetts 02109

Re: Conditional Sale Agreement dated
as of July , 1981

Gentlemen:

This opinion is furnished to you pursuant to Article 1 of the Conditional Sale Agreement dated as of July , 1981 (the "Conditional Sale Agreement"), between New England Merchants National Bank (the "Bank") and the various limited partnerships listed in Exhibit A annexed thereto (collectively the "Limited Partnerships"). Terms which are not defined herein but are defined in the Conditional Sale Agreement are used herein as therein defined.

We have acted as counsel for each of the Limited Partnerships in connection with the preparation, execution and delivery of the Conditional Sale Agreement.

In that connection, we have examined the Conditional Sale Agreement and the Limited Partnership Agreement and Certificate of Limited Partnership of each of the Limited Partnerships. We have also examined the originals, or copies certified to our satisfaction, of such other records of each of the Limited Partnerships, certificates of public officials and of the General Partner of each of the Limited Partnerships, and such agreements, instruments and documents, as we have deemed necessary as a basis for the opinions hereinafter expressed. In all such examinations, we have assumed the genuineness of signatures on original documents and the conformity to the original of all copies submitted to us as photocopies or conformed copies. As to questions of fact material to such opinions, we have relied upon the representations and warranties as to factual matters contained in and made pursuant to Conditional Sale Agreement and other representations, statements or certificates of public officials, the General Partner of the Limited Partnerships, and others. We have assumed the due execution and delivery, pursuant to due authorization, of the Conditional Sale Agreement by the Bank and that the Conditional Sale Agreement will constitute legal, valid and binding agreements of the Bank.

Based upon the foregoing, and having regard for legal considerations which we deem relevant, and subject to the

qualifications stated below, we are of the opinion that:

1. Each of the Limited Partnerships has power to own the Boxcars purchased by such Limited Partnership pursuant to the Conditional Sale Agreement ("the Boxcars") and to enter into the Conditional Sale Agreement and an agreement for the management of such Boxcars.

2. The Conditional Sale Agreement has been duly executed and delivered by the Limited Partnerships and constitutes the legal, valid and binding obligation of the Limited Partnerships.

3. The execution and delivery of the Conditional Sale Agreement by the Limited Partnerships do not require the consent, approval, registration or qualification of or by any governmental authority.

4. Assuming the accuracy of the representations set forth in Section 3.1 of the Conditional Sales Agreement and that the Boxcars are intended for use in interstate commerce, the Bank, upon filing and recording the Conditional Sale Agreement with the Interstate Commerce Commission pursuant to Section 11,303 of the Interstate Commerce Act and the regulation thereunder, will have a valid, perfected security interest in and to the Boxcars.

5. The execution and delivery of the Conditional Sale Agreement and the compliance by each of the Limited Partnerships with the other provisions of the Conditional Sale Agreement and the consummation of the other transactions therein contemplated do not conflict with or result in a breach or violation of any of the terms and provisions of, or constitute a default under, (a) the Limited Partnership Agreement of any of the Limited Partnerships, (b) to the best of our knowledge, any term of any material indenture, mortgage, deed of trust, lease or other agreement or instrument, known to us, to which such Limited Partnership is a party or by which it or any of its property is bound, or (c) any judgment, decree or order, known to us, applicable to such Limited Partnership, of any court or other governmental authority.

6. Based on inquiry of the General Partner of the Limited Partnerships and of lawyers currently with this firm who, according to our records, have performed legal services for any of the Limited Partnerships since January 1, 1981, we know of no legal or governmental proceedings pending, to which any of the Limited Partnerships is a party which might materially and adversely affect the properties and/or business of the Limited Partnerships, or the transactions contemplated by the Conditional Sale Agreement; provided that for this purpose we have not regarded any legal or governmental proceedings to be

"threatened" unless the potential litigant or governmental authority has manifested to the General Partner of the Limited Partnership or to us a present intention to initiate such proceedings.

Insofar as the foregoing opinions relate to the enforceability of any instrument, such opinions are subject to (a) all applicable bankruptcy, insolvency, moratorium, or other similar laws affecting the enforcement of creditors' rights generally and (b) the application of usual equitable principles if equitable remedies are sought.

We express no opinion as to the laws of any jurisdiction other than the laws of the State of New York and federal laws of the United States of America.

Very truly yours,

NEW ENGLAND MERCHANTS NATIONAL BANK

EXHIBIT C

INTERNATIONAL DIVISION

STOL NAME SBLC08

IRREVOCABLE DOCUMENTARY CREDIT

MAIL: P. O. BOX 2197, BOSTON, MASS. 02212

CABLE: MERNATINT, BOSTON TELEX 94-0191

PLACE AND DATE OF ISSUE:

DATE AND PLACE OF EXPIRY:

CHEMICAL BANK,

AT BANK'S ADDRESS

9/30/84

ACCT PARTY:
VARIABLE (-----)

BENEFICIARY:
NEW ENGLAND MERCHANTS NATIONAL
BANK, 28 STATE STREET, BOSTON,
MA 02108
ATTENTION: CONTROL LOAN DEPT.
FRANK E DOUGLAS

ADVISING BANK:
DIRECT

AMOUNT: USD100,000.00
ONE HUNDRED THOUSAND AND 00/100 U S
DOLLARS

SAMPLE

CREDIT AVAILABLE WITH: CHEMICAL BANK
BY: PAYMENT, AGAINST PRESENTATION OF
THE DOCUMENTS DETAILED HEREIN AND OF
YOUR DRAFTS AT SIGHT DRAWN ON CHEMICAL,
BANK, NEW YORK, NEW YORK

1- BENEFICIARY'S SIGNED STATEMENT OVER A SIGNATURE DESCRIBED AS
"AUTHORIZED" READING AS FOLLOWS: "THE AMOUNT OF THE DRAWING REPRESENTS
FUNDS OWING AND NOW DUE TO US FROM ----- UNDER A CONDITIONAL SALE
AGREEMENT BETWEEN ----- AND NEW ENGLAND MERCHANTS NATIONAL BANK."

PARTIAL DRAWINGS ARE PERMITTED HEREUNDER.

REFERENCE IN THIS LETTER OF CREDIT TO "A CONDITIONAL SALE AGREEMENT
BETWEEN --- AND NEW ENGLAND MERCHANTS NATIONAL BANK" IS FOR
IDENTIFICATION PURPOSES ONLY AND SUCH "CONDITIONAL SALE AGREEMENT" IS
NOT INCORPORATED INTO NOR MADE A PART OF THIS CREDIT.

NEGOTIATION UNDER THIS LETTER OF CREDIT IS RESTRICTED TO OUR COUNTERS.
THE ORIGINAL LETTER OF CREDIT AND ANY AMENDMENTS THERETO MUST
ACCOMPANY ANY DRAWING HEREUNDER IN ORDER THAT THE DRAWING MAY BE
ENDORSED ON THE REVERSE HEREOF.

WE HEREBY ISSUE THIS DOCUMENTARY CREDIT IN YOUR FAVOR. IT IS SUBJECT TO
THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1974 REVISION,
INTERNATIONAL CHAMBER OF COMMERCE, PARIS, FRANCE PUBLICATION NO. 290) AND
ENGAGES US IN ACCORDANCE WITH THE TERMS THEREOF, AND ESPECIALLY IN
ACCORDANCE WITH THE TERMS OF ARTICLE 3 THEREOF. THE NUMBER AND DATE OF
THE CREDIT AND THE NAME OF OUR BANK MUST BE QUOTED ON ALL DRAFTS REQUIRED.
IF THE CREDIT IS AVAILABLE BY NEGOTIATION EACH PRESENTATION MUST BE QUOTED
ON THE REVERSE OF THIS ADVICE BY THE BANK WHERE THE CREDIT IS AVAILABLE.

SCHEDULE I
 to
 CONDITIONAL SALE AGREEMENT
 Dated as of July 28, 1981
 between
 New England Merchants National Bank and the
 Vendees listed below

<u>Vendee (New England Associates No. L.P.)</u>	<u>Boxcars</u>	<u>Conditional Sale Indebtedness</u>	<u>Letter of Credit</u>
No. 1	150494- 150512	\$703,000	\$333,878.64
No. 2	150513- 150515	\$111,000	\$52,717.68
No. 3	150516- 150518	\$111,000	\$52,717.68
No. 4	150519- 150521	\$111,000	\$52,717.68
No. 5	150522- 150524	\$111,000	\$52,717.68
No. 6	150525- 150527	\$111,000	\$52,717.68
No. 7	150528- 150530	\$111,000	\$52,717.68
No. 8	150531- 150533	\$111,000	\$52,717.68
No. 9	150534- 150536	\$111,000	\$52,717.68
No. 10	150537- 150539	\$111,000	\$52,717.68
No. 11	150540- 150542	\$111,000	\$52,717.68
No. 12	150543- 150545	\$111,000	\$52,717.68
No. 13	150546- 150548	\$111,000	\$52,717.68

<u>Vendee</u> <u>(New England</u> <u>Associates No. L.P.)</u>	<u>Boxcars</u>	<u>Conditional Sale</u> <u>Indebtedness</u>	<u>Letter</u> <u>of Credit</u>
No. 14	150549, 151011- 151012	\$111,000	\$52,717.68
No. 15	151013- 151015	\$111,000	\$52,717.68
No. 16	151016- 151018	\$111,000	\$52,717.68
No. 17	151019- 151021	\$111,000	\$52,717.68
No. 18	151022- 151024	\$111,000	\$52,717.68
No. 19	151025- 151027	\$111,000	\$52,717.68
No. 20	151028- 151030	\$111,000	\$52,717.68
No. 21	151031- 151033	\$111,000	\$52,717.68
No. 22	151034- 151036	\$111,000	\$52,717.68
No. 23	151037- 151039	\$111,000	\$52,717.68
No. 24	151040- 151042	\$111,000	\$52,717.68
No. 25	151043- 151045	\$111,000	\$52,717.68
No. 26	151046- 151048	\$111,000	\$52,717.68
No. 27	151049- 151051	\$111,000	\$52,717.68
No. 28	151052- 151054	\$111,000	\$52,717.68
No. 29	151055- 151057	\$111,000	\$52,717.68

<u>Vendee</u> (New England Associates No. __L.P.)	<u>Boxcars</u>	<u>Conditional Sale</u> <u>Indebtedness</u>	<u>Letter</u> <u>of Credit</u>
No. 30	151058- 151060	\$111,000	\$52,717.68
No. 31	151061- 151063	\$111,000	\$52,717.68
No. 32	151064- 151066	\$111,000	\$52,717.68
No. 33	151067- 151069	\$111,000	\$52,717.68
No. 34	151070- 151072	\$111,000	\$52,717.68
No. 35	151073- 151075	\$111,000	\$52,717.68