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INTERSTATE COMMERCE COMMISSION

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[CS&M Ref. 2046-102]

LEASE OF RAILROAD EQUIPMENT NO. 1

Dated as of September 1, 1985

Between

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY,  
Lessee,

and

MERIDIAN TRUST COMPANY,  
not in its individual capacity but solely as Owner-Trustee  
Under the Trust Agreement No. 1 dated as of the date hereof,  
Lessor

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

[Covering 8 GMC-EMD SD-50 Diesel Electric Locomotives]

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

LEASE OF RAILROAD EQUIPMENT NO. 1 dated as of September 1, 1985, between CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation (the "Lessee"), and MERIDIAN TRUST COMPANY, a Pennsylvania trust company, not individually but solely as trustee (the "Lessor") under a Trust Agreement No. 1 dated as of the date hereof (the "Trust Agreement"), with the party named in Schedule A to the Participation Agreement hereinafter mentioned (the "Owner").

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof (the "CSA") with GENERAL MOTORS CORPORATION (Electro-Motive Division) (the "Builder"), wherein the Builder has agreed to manufacture and conditionally sell to the Lessor the units of railroad equipment described in Part A of Schedule A hereto to which may be attached the automatic train controls ("ATCs") specified in Part B of Schedule A hereto (the units of railroad equipment together with the ATCs settled for under the Participation Agreement defined below, are hereafter called the "Equipment");

WHEREAS the Builder is assigning its interests in the CSA to Mercantile-Safe Deposit and Trust Company, acting as agent (said Company, as so acting, being hereinafter together with its successors and assigns, called the "Vendor") under a Participation Agreement No. 1 dated as of the date hereof (the "Participation Agreement") with the Lessee, the Lessor, the Owner, and the parties named in Schedule B thereto (said parties, together with their successors and assigns, being hereinafter called the "Investors");

WHEREAS the Lessee desires to lease such number of units of Equipment as are delivered to and accepted by the Lessor and settled for under the CSA (together with the ATCs installed thereon and settled for under the Participation Agreement, the "Units") at the rentals and upon the terms and conditions hereinafter provided; and

WHEREAS the parties contemplate that the Lessor will assign, for security purposes, certain of its rights in this Lease to the Vendor by an Assignment of Lease and Agreement No. 1 dated as of the date hereof (the "Lease Assignment"), and the Lessee will consent thereto by a Lessee's Consent and Agreement No. 1 (the "Consent");

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

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or additional rent, or setoff against or recoupment or reduction of rent or additional rent, including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor or the Owner under this Lease or under the CSA, or against the Owner, the Builder or the Vendor or otherwise. The Lessee's obligations hereunder, including its obligations to pay all rentals, additional rentals and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect, whether latent or patent, in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever; provided, however, that nothing contained herein shall prevent the Lessee from bringing an action for damages suffered by the Lessee as a result of a breach by any person

of any obligation of such person under any of the Documents (as defined in the Participation Agreement).

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

§ 3. Rentals. (1) The Lessee agrees to pay the Lessor, as basic rental for each Unit subject to this Lease, 30 consecutive semiannual payments, payable in arrears, on February 1 and August 1 in each year commencing August 1, 1986, to and including February 1, 2001. The 30 semiannual rental payments shall each be in an amount equal to the percentage set forth in Schedule B hereto for the applicable payment date multiplied by the Purchase Price (as defined in Article 4 of the CSA) of each Unit subject to this Lease.

(2) The Lessee also agrees to pay, as supplemental rentals, (i) to the Lessor an amount equal to any Investment Deficiency (as defined in Paragraph 2 of the Participation Agreement) at the time such Investment Deficiency is payable under Paragraph 2 of the Participation Agreement, (ii) to the Lessor an amount equal to any amount payable by the Lessor under clauses (a) or (b) of the second paragraph of Paragraph 10 of the Participation Agreement at the time such amount is payable and (iii) all other amounts, liabilities and obligations which the Lessee assumes or agrees to pay

hereunder, under the Participation Agreement or under the Indemnity Agreement (as defined in the Participation Agreement) to the Lessor or others.

The percentages with respect to basic lease rentals specified in Schedule B hereto, the percentages with respect to Casualty Values specified in Schedule C hereto and the percentages with respect to Termination Values specified in Schedule D hereto (herein collectively called the "Percentages") are based upon the accuracy of the Assumptions set forth in Schedule F hereto and the assumptions set forth in Section 1 of the Indemnity Agreement. If for any reason any of the Assumptions set forth in Schedule F hereto shall be incorrect or inaccurate, the Percentages shall be adjusted (upward or downward, as the case may be) to the extent, if any, as shall be necessary to preserve the Owner's Net Economic Return (as hereinafter defined). The Percentages are also subject to adjustment (but without duplication) from time to time as provided in Paragraph 19 of the Participation Agreement and in the Indemnity Agreement. Notwithstanding anything herein or in any other Document to the contrary, no such adjustment shall be required pursuant to the Indemnity Agreement, the Participation Agreement or this Lease to the extent such adjustment has already been made under any other Document.

"Net Economic Return", as used herein, shall mean the Owner's (i) after-tax yield and (ii) net present value of and general pattern of net after-tax cash flows in each case as determined by the Owner on the date the Participation Agreement is executed on the basis of the Assumptions set forth in Schedule F to this Agreement and of the assumptions set forth in Section 1(a) of the Indemnity Agreement; provided, however, that if the Percentages are adjusted from time to time pursuant to the second succeeding paragraph, the Net Economic Return shall thereafter take into account the effect of any such adjustment.

If any of the assumptions set forth in Section 1(a) of the Indemnity Agreement is incorrect or inaccurate on or prior to the date that any Unit of Equipment or the ATC installed thereon is delivered and accepted under the Lease, the Percentages with respect to such Unit of Equipment and/or such ATC, as the case may be, shall be adjusted upward or downward, as the case may be, by such amount as will, in the reasonable opinion of the Owner, preserve the Owner's Net Economic Return with respect to such Unit of Equipment and/or such ATC.

If because of amendment to the Internal Revenue Code of 1954, as amended (the "Code"), enacted by the 99th Congress, the highest marginal statutory rate of Federal income tax generally applicable to corporations is from time to time other than 46%, or if the Owner is required to take into income any amounts measured by reference to the excess of the depreciation claimed by the Owner with respect to the Equipment in accordance with the schedule for 5-year property contained in Section 168(b)(1) of the Code over the depreciation that would have been allowed with respect to the Equipment under a straight-line method of depreciation, then as of the first semiannual rent payment date hereunder following by at least 30 days the later of the date of enactment or of such change, the Percentages shall be adjusted (upward or downward as the case may be) as follows:

(A) calculate the revised after-tax yield to the Owner utilizing the basic rental Percentages as adjusted pursuant to the Documents (other than this paragraph) after taking into account such change in the Code;

(B) determine the arithmetic average of (i) the after-tax yield determined in (A) above and (ii) the after-tax yield to the Owner referred to in the definition of "Net Economic Return" (excluding the proviso thereto); and

(C) prepare revised schedule of basic rent Percentages and Casualty Value and Termination Value Percentages in a manner that will result in the same after-tax yield to the Owner as the arithmetic average determined in (B) above.

Any adjustments of the Percentages referred to in the preceding paragraphs of this § 3 shall be determined by the Owner in accordance with the applicable provisions of this § 3 and if applicable Paragraph 19 of the Participation Agreement, and the Owner shall deliver to the Lessor, the Lessee and the Agent (A) schedules setting forth the revised Percentages and (B) a statement by the Owner as to the computation of such revised Percentages and to the effect that the revised Percentages have been determined pursuant to, and in compliance with, the requirements set forth in this § 3, or, if applicable, Paragraph 19 of the Participation Agreement or the Indemnity Agreement.

The Lessor and the Lessee shall execute and deliver an amendment to this Lease to reflect each adjustment

referred to in this § 3, provided that the failure to execute and deliver an amendment shall not affect any such adjustment and any such adjustment shall be effective notwithstanding that no such amendment is executed and delivered.

Any recomputation of basic rent Percentages pursuant to this § 3 shall, among other things, be in amounts that will satisfy the provisions of Revenue Procedure 75-21 and Revenue Procedure 75-28.

Upon the occurrence of any event requiring an adjustment to any Percentages pursuant to this § 3 or Paragraph 19 of the Participation Agreement or the provisions of the Indemnity Agreement, the Owner shall make the necessary computations and shall furnish to the Lessor, the Lessee and the Agent the schedules and statement referred to in the third preceding paragraph. The Lessee agrees that it will have no right to inspect the tax returns or any other document of Lessor or the Owner or any affiliate thereof in order to verify the basis or the accuracy of calculations so made or of the revised Percentages so set forth and that the determinations so made by the Owner shall be conclusive and binding on Lessee; provided, however, that upon written request by Lessee, the Owner shall deliver to the Lessee (with a copy to the Lessor) a certificate of its chief accounting officer confirming that such revised Percentages, as set forth in such written statement, are accurate and in conformity with the provisions of this § 3 and, if applicable, Paragraph 19 of the Participation Agreement and/or the Indemnity Agreement.

Anything in the foregoing provisions of this § 3 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3 on each rental payment date and the Casualty Values and Termination Values payable hereunder shall in no event be less than the principal and interest payment due on each such date pursuant to the CSA.

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

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this § 3 and in § 7 hereof, but excluding all payments not assigned to the Vendor pursuant to the Lease Assignment, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor, to apply such payments in accordance with the provisions of the Lease Assignment until the Vendor notifies the Lessee that the CSA is no longer in effect. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds to the Vendor by 11:00 a.m., Baltimore time, on the date such payment is due.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on February 1, 2001. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9 and 14 hereof) shall survive the expiration or termination of the term of this Lease and the full payment of all amounts payable under this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSA; and if an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination), all as provided therein without affecting the obligations which by the provision of this Lease survive the termination of the term; provided, however, that, so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 12 hereof.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule A hereto, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", with appropriate changes thereof as from time to time may be required by law, in the opinion of the Vendor and the Lessor, in order

to protect the Lessor's and the Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and the rights of the Vendor under the CSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed and deposited, that such filing and deposit will protect the Vendor's and the Lessor's rights in such Units and that no other filing, deposit or giving of notice with or to any government or agency thereof in the United States or Canada is necessary to protect the rights of the Vendor and the Lessor in such Units.

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

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee shall pay, and shall indemnify, protect, save and keep harmless the Lessor (in both its individual and fiduciary capacities), the Owner, the Vendor, the Investors and the Trust Estate, as defined under the Trust Agreement, (referred to collectively, together with their respective agents, servants, successors and assigns, as "Indemnified Persons" and individually as an "Indemnified Person") from and against any and all fees or taxes (including, without limitation, gross receipts, income, franchise, excise, sales, use, documentation, license, registration, occupational, capital, net worth, asset based, value-added, property (whether personal, real, tangible or intangible) and stamp taxes or fees and taxes imposed in respect of items of tax preference), levies, assessments, imposts, duties, charges or withholdings of any nature whatsoever, together with any penalties, additions to tax, fines or interest thereon imposed against such Indemnified Person, the Lessee or the Equipment or any part thereof by any Federal, state or local government or taxing authority

or by any foreign government, foreign governmental subdivision or other foreign taxing authority (i) upon or with respect to the Equipment or any part thereof or any interest therein or in any part thereof, or (ii) upon or with respect to the manufacture, acquisition, construction, installation, maintenance, repair, purchase, acceptance, delivery, redelivery, nondelivery, rejection, ownership, encumbrance, imposition or existence of a lien or encumbrance, liability for payment or payment with respect to a lien or encumbrance which the Lessee is required to discharge pursuant to § 12 hereof, lease, rental, sublease, financing or refinancing by or at the request of the Lessee or pursuant to the Documents, assembly, possession, repossession, use, operation, transportation, importation, exportation, return, abandonment, sale, transfer, passage of title, replacement, rebuilding, modification, storage or disposition, in each such case of the Equipment or any part thereof, or (iii) upon or with respect to the rentals, receipts, proceeds, earnings or gains arising from the Equipment or any part thereof or the income or proceeds with respect to the Equipment, including, without limitation, principal, interest and other amounts payable on the CSA Indebtedness; provided, however, that this § 6 shall not be construed as a guaranty by the Lessee or any affiliate or subsidiary of the Lessee of (A) payment of the debt service on the CSA Indebtedness or (B) any residual value of the Equipment at the end of the original term or any renewal term under this Lease, (iv) upon or with respect to this Lease or any other of the Documents (as defined in the recitals to the Participation Agreement), (v) upon or with respect to any aspect of the transactions contemplated by the Documents, or (vi) upon or with respect to the issuance, acquisition or transfer of the CSA Indebtedness (all of the foregoing being herein collectively referred to as "Taxes" or individually referred to as a "Tax"); excluding, however: (1) Taxes imposed by the United States of America which are based on or measured by the net income or excess profits of any Indemnified Person (or value-added Taxes imposed in lieu of such net income or excess profits Taxes); (2) Taxes based on or measured by the net income or excess profits of any Indemnified Person (or Taxes in the nature of franchise, capital, value-added, net worth or asset based Taxes imposed in lieu of said net income or excess profits Taxes) which are imposed upon such Indemnified Person by the state, city or municipality in which the principal office of such Indemnified Person is located or by the political subdivision of such state, city, municipality or taxing authority in which the principal office of such Indemnified Person is located; (3) Taxes based

on or measured by the net income of any Indemnified Person which are imposed by a state, city or municipality or taxing authority in which such Indemnified Person (and, in the case of the Owner, any other corporation with which the Owner files a consolidated tax return in such jurisdiction) is subject to net income taxes to the extent such Taxes are imposed for reasons other than the transactions contemplated by the Documents; (4) Taxes imposed on or for the account of any Indemnified Person that result from acts of such Indemnified Person that constitute the gross negligence or willful misconduct of such Indemnified Person; (5) Taxes which are imposed with respect to any period, or with respect to any act, occurring after the termination of this Lease and the return of the Equipment to the Lessor in accordance with § 14 of this Lease (unless such termination shall have occurred pursuant to § 10 of this Lease); (6) Taxes for which the Lessee is obligated to indemnify and has indemnified (A) the Owner pursuant to the Indemnity Agreement or (B) an Indemnified Person pursuant to another Document; (7) in the case of the Owner or the Lessor, as the case may be, so long as no Event of Default shall have occurred and be continuing, Taxes imposed upon or with respect to the voluntary transfer by such person of any of its interest in the Equipment, the Lease or the Trust Estate; (8) Taxes to the extent arising solely from an act or failure to act by the Owner or the Lessor or their agents or servants, if such act or failure to act is in violation of the obligations of the Owner or the Lessor under the Documents or is not related to the transactions contemplated by the Documents or the enforcement thereof and is not otherwise indemnified by the Lessee; provided, however, that the exclusions in the foregoing clauses (7) and (8) shall not apply to any indemnity payment payable hereunder to the Vendor or the Investors; (9) Taxes imposed by a foreign government or taxing authority or governmental subdivision of a foreign country to the extent such Taxes are utilized by an Indemnified Person as a credit against United States Federal income taxes otherwise payable by such Indemnified Person, assuming for this purpose that such Indemnified Person utilizes as credits (A) first, all foreign taxes (including foreign taxes which are carried over to the taxable year for which a determination is being made) other than those described in the succeeding clause (B), and (B) then, all foreign taxes (including foreign taxes which are carried over to the taxable year for which a determination is being made) for which such Indemnified Person is entitled to obtain indemnification pursuant to this Lease or the Indemnity Agreement; provided, however, that if the utilization by such Indemnified Person of foreign taxes otherwise payable by the Lessee, as a credit against such Indemnified Person's United

States Federal income taxes, later results in the expiration of any foreign tax credit carryovers or carrybacks of such Indemnified Person that would not otherwise have expired, then the amount of such carryovers or carrybacks shall be treated as Taxes to which this § 6 applies; and provided, further, however, that all determinations as to the utilization of Taxes as credits, and as to whether such creditable Taxes are to be excluded from the Lessee's indemnity under this § 6 pursuant to this clause (9), shall be made by such Indemnified Person and shall be conclusive and binding on the Lessee if the chief accounting officer of such Indemnified Person certifies in writing to the Lessee that such determinations were made in good faith compliance with the provisions of this clause (9); and (10) Taxes imposed on, measured by, or with respect to the fees or compensation received by the Vendor or the Lessor with respect to the transactions contemplated by the Documents; provided, however, that the Lessee agrees to pay any Taxes referred to in the foregoing clauses (1) through (10) hereof to the extent such Taxes are in substitution for or relieve the Lessee from any Taxes which the Lessee would be obligated to pay under the terms of this § 6.

Any payment by the Lessee pursuant to this § 6 shall include such additional amounts as are necessary to hold the Indemnified Person receiving such payment harmless on a net after-tax basis (taking into account any tax benefit or detriment realized by such Indemnified Person as a result of the payment by such Indemnified Person of the expense indemnified against or as a result of such payment) from any and all taxes of any kind (including Taxes excluded from this § 6 pursuant to clauses (1) through (10) of the preceding paragraph) required to be paid by such Indemnified Person as a result of such payment.

In the event any returns, statements or reports with respect to any Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor, the Owner and the Vendor in the Equipment, and in such manner as shall be satisfactory to the Lessor, the Owner and the Vendor. If the Lessee is not permitted to make such returns, statements and reports, the Lessee will notify the Lessor, the Owner and the Vendor of such requirement and will prepare such returns, statements and reports in such manner as shall be satisfactory to the Lessor, the Owner and the Vendor and the Lessee will deliver such returns, statements and reports to the Lessor, the Owner and the Vendor within a reasonable

period of time prior to the time such reports are required to be filed.

The Lessee agrees to keep the Equipment free and clear of any Taxes imposed solely on and payable solely by the Lessee which would adversely affect the title of the Lessor or the interest of the Owner in the Equipment, or the rights of the Vendor under the CSA, or would result in a lien upon the Equipment (except if the Lessee shall have adequately bonded such lien or otherwise protected the interests of such Indemnified Person in a manner satisfactory to such Indemnified Person). Subject to the Lessee's obligation under the preceding sentence, the Lessee is not required to pay any Tax during the period that the Lessee is contesting, or an Indemnified Person is required to contest, such Tax pursuant to the terms of this § 6 and the lessee shall have the right to contest in its own name any Tax which is imposed solely on and payable solely by the Lessee.

If a written claim shall be made against any Indemnified Person for any Tax which the Lessee is obligated to indemnify pursuant to this § 6, such Indemnified Person shall notify the Lessee promptly upon becoming aware of such claim (but the failure to so notify the Lessee shall not affect the Lessee's obligations hereunder except to the extent such failure results in an adverse effect on the ability of the Lessee to contest such Tax). If the Lessee shall so request, within 30 days after receipt of such notice, such Indemnified Person shall in good faith and with due diligence at the Lessee's sole expense contest the imposition of such Tax; provided, however, that such Indemnified Person may in its sole discretion select the forum for such contest and determine whether any such contest shall be by (i) resisting payment of such Tax, (ii) paying such Tax under protest or (iii) paying such Tax and seeking a refund thereof; and provided, further, however, that at such Indemnified Person's option, and subject to the preceding clauses (i) through (iii) such contest shall be conducted by the Lessee in the name of such Indemnified Person.

In no event shall such Indemnified Person be required or the Lessee permitted to contest the imposition of any Tax (other than a Tax imposed solely on and payable solely by the Lessee) which the Lessee is obligated to indemnify pursuant to this § 6 unless: (i) the Lessee shall have acknowledged its liability to such Indemnified Person for an indemnity payment pursuant to this § 6 as a result of such claim if and to the extent such Indemnified Person or

the Lessee, as the case may be, shall not prevail in the contest of such claim; (ii) such Indemnified Person shall have received from the Lessee (A) an indemnity satisfactory to such Indemnified Person for any liability, expense or loss arising out of or relating to such contest and (B) an opinion of tax counsel selected by the Lessee and approved by the Indemnified Person, furnished at the Lessee's sole expense, to the effect that a reasonable basis exists for contesting such claim; (iii) the Lessee shall have agreed to pay such Indemnified Person on demand all reasonable costs and expenses that such Indemnified Person may incur in connection with contesting such claim (including, without limitation, all costs, expenses, losses, legal and accounting fees, disbursements, penalties, interest and additions to tax); (iv) such Indemnified Person shall have determined that the action to be taken will not result in any danger of sale, forfeiture or loss of, or the creation of any lien (except if the Lessee shall have adequately bonded such lien or otherwise protected the interests of such Indemnified Person in a manner satisfactory to such Indemnified Person) on, the Equipment or any portion thereof or any interest therein; and (v) if such contest shall be conducted in a manner requiring the payment of the claim, the Lessee shall have paid the amount required.

Notwithstanding anything contained in this § 6 to the contrary, no Indemnified Person shall be required to contest any claim if the subject matter thereof shall be of a continuing or recurring nature and shall have been previously and finally decided pursuant to the contest provisions of this § 6 unless (A) there shall have been a change in the law (including, without limitation, amendments to statutes or regulations, administrative rulings and court decisions) enacted, promulgated or effective after such claim shall have been previously so decided, and (B) such Indemnified Person shall have received an opinion of tax counsel selected by the Lessee and approved by the Indemnified Person, furnished at the Lessee's sole expense, to the effect that such change is favorable to the position which such Indemnified Person or the Lessee, as the case may be, has asserted in such previous contest and that there consequently exists a reasonable basis for contesting such claim.

An Indemnified Person shall not enter into a settlement or other compromise with respect to any indemnified Tax without prior written consent of the Lessee, which consent shall not be unreasonably withheld or delayed, unless such Indemnified Person waives its right to be indemnified with respect to such Tax under this § 6. If an Indemnified

Person shall obtain a repayment of any Tax paid by the Lessee pursuant to this § 6, such Indemnified Person shall, so long as no Event of Default, or event which with the lapse of time or the giving notice or both would constitute an Event of Default, shall have occurred and be continuing, promptly pay to the Lessee the amount of such repayment, together with any interest (other than interest for the period, if any, after such Tax was paid by such Indemnified Person until such Tax was paid or reimbursed by the Lessee) received by such Indemnified Person on account of such repayment.

The provisions of this § 6 shall survive the expiration or termination of this Lease and the other Documents.

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

In the event that any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, or permanently rendered unfit for use, from any cause whatsoever, permanently returned to the Builder pursuant to any patent indemnity provision of the CSA, or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or for an indefinite period, but only when such period shall exceed the term hereof (or, if such taking, requisition or condemnation shall occur during a renewal term, for a stated period which shall exceed the then remaining renewal term or for an indefinite period, but only when such period shall exceed such renewal term), or by any other government or governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days (such occurrences being hereinafter called "Casualty Occurrences"), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully

notify the Lessor, the Owner and the Vendor with respect thereto. On the semiannual Rent Payment Date or February 1, 1986, next succeeding such notice (the "Casualty Payment Date"), the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on the Casualty Payment Date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the Casualty Payment Date. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or permanent return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

The "Casualty Value" of each Unit as of any semiannual rent payment date or February 1, 1986, shall mean an amount equal to the percentage of the Purchase Price of such Unit as is set forth in Table 1 of Schedule C hereto opposite such date plus the amount, if any, determined as provided in Table 2 to said Schedule C.

Whenever any Unit shall suffer a Casualty Occurrence after the final payment of basic rent in respect thereof is due pursuant to § 3 hereof and before (a) such Unit shall have been returned in the manner provided in § 15 hereof, and (b) the storage period therein provided with respect to such Unit shall have expired, the Lessee shall promptly (as provided above) and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall, except as otherwise provided in § 13 hereof, be an amount equal to 25% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit or return to the Builder of such Unit), the Lessor shall be entitled to recover possession of such Unit.

In the event of the requisition (other than a requisition which constitutes a Casualty Occurrence) for use by the United States Government or by any other government or governmental entity (hereinafter collectively called the "Government") of any Unit during the term of this Lease or any renewal thereof, all of the Lessee's obligations (including, without limitation, the obligation to pay rent) under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at

the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence, or any component thereof, at the best price obtainable on an "as is, where is" basis and the Lessee shall notify the Lessor and the Owner prior to any such sale. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit plus the Lessee's out-of-pocket expenses in connection with such sale and shall pay any excess to the Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit permanently returned to the Builder pursuant to any patent indemnity provision of the CSA an amount equal to any net patent indemnity payment in respect of such Unit made by the Builder under the CSA. The Lessee will pay all costs and expenses in connection with the sale of any Unit pursuant to a Casualty Occurrence.

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

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained with insurers customarily and regularly insuring against similar risks in the industry all-risk physical damage insurance and comprehensive general liability insurance in respect of the Units at the time subject hereto, in amounts (including with respect to self insurance) and against risks customarily insured against by

prudent railroad companies in respect of similar equipment and; in any event, in amounts (including with respect to self insurance) and against risks, and with no greater deductibles than, insured against by the Lessee in respect of similar equipment owned or leased by it. Any policies of insurance carried in accordance with this paragraph shall name the Lessor, the Owner and the Vendor as additional insureds, in the case of general comprehensive liability insurance, as their respective interests may appear, and the Lessee agrees that, upon the occurrence of an Event of Default hereunder, it shall cause such policies to provide that the Lessor, the Owner and the Vendor shall be named as loss payees, in the case of all-risk physical damage insurance and shall provide for 30 days' (except 10 days' for non-payment of premium) prior written notice to the Lessor, the Owner and the Vendor of any material change or cancelation. All policies of insurance carried in accordance with this paragraph shall provide that neither the Owner, the Lessor nor the Vendor shall be liable for premiums or commissions and further shall provide that such policies of insurance shall be primary and shall not require contribution from any single interest insurance, contingent insurance or excess value insurance which may be carried by the Owner, the Lessor or the Vendor. In the case of all-risk physical damage insurance, in the event that such policies contain breach of warranty provisions in respect of the Equipment or similar equipment owned or leased by the Lessee, such policies of insurance shall provide (but only to the extent such provisions are available to the Lessee without undue expense or to the extent such provisions are offered by the Lessee to any other creditor or lessor with respect to similar equipment owned or leased by the Lessee) that in respect of the interests of the Lessor, the Owner and the Vendor in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or its representatives and shall insure the Lessor, the Owner and the Vendor regardless of any breach or violation of any warranty, declaration, representation or condition contained in such policies by the Lessee or its representatives, and, in the case of comprehensive general liability insurance, shall provide that all the provisions of such policies of insurance, except that limits of liability, shall operate in the same manner as if there were a separate policy covering each insured. Nothing in this § 7 shall prohibit the Owner from maintaining, at its own expense, additional insurance for its own account with respect to the Equipment or be deemed to impose on the Owner any obligation to verify the accuracy or adequacy of insurance coverages maintained by the Lessee. If the Lessor shall receive any

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

In the event that the Lessee shall, in its reasonable judgment evidenced by a resolution of its Board of Directors, determine that the Units have become economically obsolete in the Lessee's business or shall be surplus to its requirements, the Lessee shall have the right, on at least 180 days' prior written notice to the Lessor, to terminate this Lease as to all, but not less than all, Units then subject to this Lease, as of any succeeding basic rental payment date specified in such notice (hereinafter called the "Termination Date"); provided, however, that (i) the Termination Date shall not be earlier than August 1, 1991, (ii) each holder of CSA Indebtedness shall have consented to such termination or CSA Indebtedness shall not be outstanding, (iii) no Event of Default or other event which after lapse of time or notice or both would become an Event of Default shall have occurred and be continuing, and (iv) on the Termination Date each Unit shall be in the same condition as if redelivered in accordance with the requirements of § 14 hereof. During the period from the termination notice until the fifth business day preceding the Termination Date, the Lessee shall use its best efforts to, and the Lessor may if it so chooses, obtain bids for the purchase of all the Units, and the Lessee shall at least five business days prior to such Termination Date certify to the Lessor the amount of each such bid and the name and address of the party submitting such bid (which shall not be the Lessee or an affiliate thereof or any person from whom the Lessee or any such affiliate intends to lease such Units). On the Termination Date the Lessor may elect to sell all the Units for cash to the bidder who shall have

submitted the highest bid prior to the Termination Date. The total sale price realized at any such sale shall be retained by the Lessor and on the Termination Date the Lessee shall pay to the Lessor (i) the excess, if any, of the Termination Value for each Unit computed as of such date over the sale price of the Unit after the deduction of all expenses incurred by the Lessor in connection with the sale and (ii) the rental payment due on the Termination Date and all other amounts due hereunder on or before the Termination Date. The Termination Value of each Unit as of the Termination Date shall be that percentage (as may be adjusted pursuant to § 3 hereof) of the Purchase Price of the Unit as is set forth in Schedule D hereto opposite such date. The Lessor may, however, by written notice to the Lessee given prior to the Termination Date, elect to retain all the Units, in which case (i) the Lessee shall not be obligated to pay the Termination Value to the Lessor and (ii) the Lessee shall deliver all the Units to the Lessor in accordance with the provisions of § 14 hereof. Upon payment of the purchase price for the Units by the purchaser thereof, the Lessor shall execute and deliver to the purchaser a bill of sale (on an "as-is, where-is" basis and without recourse, representation or warranty of any kind except as hereinafter stated) for the Units such as will transfer to the purchaser such title to the Units as the Lessor derived from the Builder, free and clear of all liens, security interests and other encumbrances arising through the Lessor, in its individual or fiduciary capacity, or the Owner, which such parties are required to pay or discharge pursuant to Section 18 of the Participation Agreement or the proviso to the third paragraph of Article 12 of the CSA, as the case may be. If no sale shall occur, this Lease shall continue in full force and effect without change as if the notice of termination had never been given.

§ 8. Reports and Inspection. On or before April 30 in each year or May 31 in each year in the case of the following clauses (a)(iii) and (b), commencing with the calendar year 1986, the Lessee will furnish to the Lessor, the Vendor and the Owners (a) an accurate statement (i) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably

request, (ii) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the CSA have been preserved or replaced and (iii) setting forth a description of the insurance in effect with respect to the Equipment pursuant to § 7 hereof, (b) a certificate of insurance by or on behalf of the Lessee's insurers stating the amounts of such insurance in effect, the amount of deductible, the named insureds, if required to be named as such under the provisions of § 7 hereof and the limits of each policy and (c) a report of the Lessee's independent insurance broker certifying that the Lessee's insurance coverage complies with the requirements of § 7 hereof. A certificate of insurance referred to in clause (b) of the preceding sentence shall also be furnished to the Lessor, the Owner and the Vendor on or prior to the expiration date of each policy of insurance. The Lessor, at its sole cost and expense, shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease, but the Lessor shall have no obligation to do so. The Lessee shall promptly notify the Lessor and the Vendor of any material changes or any material proposed changes of which the Lessee has knowledge in its insurance coverage in effect with respect to the Equipment pursuant to § 7 hereof.

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

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. NEITHER THE OWNER NOR THE LESSOR MAKES, HAS MADE NOR SHALL BE DEEMED TO MAKE, ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATIONS OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE LESSOR NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS 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, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the

Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Items 3 and 4 of Annex A to the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, subleasing, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Inspection and Acceptance shall be conclusive evidence as between the Lessee and the Lessor (but not as between any party and the Builder) that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor, the Owner and the Vendor, at all times to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which operations involving the Units extend, with the interchange rules of the Association of American Railroads (which term shall include any successor organization thereof), if applicable, and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body in the United States, Canada or any other jurisdiction exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called the "Applicable Laws"), and in the event that, prior to the expiration of this Lease or any renewal thereof, any Applicable Law require any alteration,

replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Lessor, the Owner or the Vendor, adversely affect the property or rights of the Lessor, the Owner or the Vendor under this Lease or under the CSA. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements whether or not removable (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body in the United States, Canada or any other jurisdiction exercising any power or jurisdiction over such Unit) (collectively "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units in accordance with their original intended purpose, shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease, and shall not render the Units ineligible for interchange service under the rules of the Association of American Railroads. Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Lessor and be subject to a valid first lien and prior perfected security interest under the CSA in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part; (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the provisions of the first paragraph of § 7 hereof or the terms of the first sentence of this paragraph; or (iii) such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be

continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee and may be removed by the Lessee at any time during the term of this Lease and prior to the renewal thereof and shall be removed prior to the return of the Units to the Lessor pursuant to § 14 hereof; provided, however, that the Lessor shall have the option to purchase for cash any or all such Parts which are owned by the Lessee at the end of the Term and the Lessee agrees to give the Lessor notice at least 180 days prior to the end of the Term of the identity of such Parts. If the Lessor desires to exercise such option, the Lessor shall, not later than the date of the return of the Units pursuant to § 14 hereof, give the Lessee written notice of its election to purchase any such Part or Parts on a date specified in such notice occurring within 10 days after such return. The purchase price of any such Part shall be the Fair Market Value (as defined in § 13 hereof) thereof as of the date of such purchase. If the Lessor elects to purchase any such Part, the Lessee will on or prior to the date of such purchase, upon receipt of the purchase price therefor, (x) furnish the Lessor with a full warranty bill of sale with respect to such Part in form and substance satisfactory of Lessor, conveying to Lessor good title to such part free and clear of all Liens, and (y) furnish the Lessor with such evidence of the title to, and of the condition of, such Part as the Lessor may reasonably request. The term "Part" for the purposes of this paragraph shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

Whether or not any of the transactions contemplated hereby are consummated, the Lessee assumes liability for, and shall indemnify, protect, save and keep harmless each Indemnified Person (as defined in § 6 hereof) from and against, any and all liabilities, obligations, damages, penalties, claims, actions, suits, costs and expenses, including legal fees and expenses, of whatsoever kind and nature (herein collectively called "Indemnified Matters") imposed on, incurred by or asserted against any Indemnified Person in any way relating to or arising out of (i) the manufacture, acquisition, construction, installation, purchase, delivery, ownership, lease, sublease, possession, rental, use, condition, operation, transportation, return, sale, replacement, storage or disposition of the Units or any part thereof (including, without limitation, Indemnified Matters in any way relating to or arising out of latent or other defects, whether or not discoverable by the Lessee or any other

person, injury to person or property (except as otherwise provided in § 14 hereof) or the environment, patent, trademark or invention rights, or strict liability in tort), or (ii) this Lease or any of the other Documents or any of the transactions contemplated hereby or thereby, or any other document or instrument hereafter executed and delivered pursuant to the terms hereof or thereof, or the enforcement of any of the terms of this Lease or any of the other Documents, or (iii) the enforcement of any agreement, restriction or legal requirement affecting the Units or any part thereof or the ownership, operation or use of the Units or any part thereof, or (iv) the creation of the CSA Indebtedness and the execution and delivery of certificates of interest therein; provided, however, that the Lessee shall not be required to indemnify any Indemnified Person for (A) Indemnified Matters resulting from the gross negligence or wilful misconduct of such Indemnified Person, or (B) Indemnified Matters in respect to the Units which arise from acts or events that occur after the termination of this Lease and the return of the Units to the Lessor in accordance with § 14 hereof (unless such termination shall have occurred pursuant to § 10 hereof), or (C) Indemnified Matters resulting solely from the breach of any representation, warranty, agreement or covenant made by such Indemnified Person (or, in the case of the Owner, by the Lessor, in its individual or fiduciary capacity) in any of its Documents (as defined in the Participation Agreement), or (D) in the case of the Owner and the Lessor (in its individual and fiduciary capacities) Indemnified Matters not otherwise indemnified by the Lessee caused solely by an act or omission of such person (or, in the case of the Owner, by the Lessor, in its individual or fiduciary capacities) not related to the ownership of the Equipment or to the transactions contemplated by the Documents or the enforcement thereof, or (E) in the case of the Owner and the Lessor (in its individual and fiduciary capacities), so long as no Event of Default shall have occurred and be continuing, Indemnified Matters caused solely by the voluntary transfer by such person of any of its interest, if any, in the Equipment, this Lease or the other Documents or the Trust Estate, or (F) Taxes described in § 6 hereof and the indemnities provided for in the Indemnity Agreement, or (G) costs and expenses referred to in Paragraph 13 of the Participation Agreement to the extent that the Lessee is not required to pay the same pursuant to Paragraph 13 of the Participation Agreement.

The Lessee shall be obligated under this § 9 irrespective of whether the Indemnified Person shall also be indemnified with respect to such Indemnified Matters

elsewhere under this Lease or under any other Document or by any other person, and the Indemnified Person may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. With respect to any payment or indemnity hereunder, such payment or indemnity shall include any amount necessary to hold any Indemnified Person receiving such payment or indemnity harmless on a net after-tax basis and taking into account any tax benefit realized by such Indemnified Person as a result of such payment from all taxes required to be paid by such Indemnified Person with respect to such payment or indemnity under the laws of any Federal, state or local government or taxing authority in the United States of America.

Upon the commencement of any proceeding or the receipt by any Indemnified Person of a written claim against an Indemnified Person involving one or more Indemnified Matters, such Indemnified Person shall promptly, upon receiving written notice thereof, give notice thereof to the Lessee. The Lessee shall be entitled (a) in any proceeding that involves solely a claim for one or more Indemnified Matters, to assume responsibility for and control thereof, (b) in any proceeding involving a claim for one or more Indemnified Matters and other claims related or unrelated to the transactions contemplated by the Documents, to assume responsibility for and control of such claim for Indemnified Matters to the extent that the same may be and is severed from such other claims (and such Indemnified Person shall use reasonable efforts at its expense to obtain such severance unless, in the opinion of counsel for such Indemnified Person obtained at its expense, such severance and assumption of responsibility and control by the Lessee has a reasonable possibility of adversely affecting the resolution of such other claims), or (c) in any other case, to be consulted by such Indemnified Person with respect to proceedings subject to the control of such Indemnified Person. Notwithstanding any of the foregoing to the contrary, the Lessee shall not be entitled to assume responsibility for and control of any such judicial proceedings if (1) an Event of Default, or an event which with the giving of notice or the lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, (2) such proceedings will involve any substantial danger of the sale, forfeiture or loss of the Units or any part thereof, (3) such Indemnified Matters relate in any way to the general business of any Indemnified Person other than the ownership and leasing of Units, or (4) the Lessee shall not have furnished the Indemnified Person with an opinion of counsel reasonably satisfactory to such Indemnified Person to the effect that there exists a

meritorious basis for contesting such Indemnified Matters. The Indemnified Person may participate at its own expense in any proceedings controlled by the Lessee pursuant to the preceding provisions.

The Indemnified Person shall supply the Lessee with such information requested by the Lessee as in the reasonable opinion of counsel to such Indemnified Person is necessary or advisable for the Lessee to control or participate in any proceeding to the extent permitted by this § 9. Unless an Event of Default, or an event which with the giving of notice or the lapse of time or both would constitute an Event of Default, has occurred and is continuing, such Indemnified Person shall not enter into a settlement or other compromise with respect to any Indemnified Matter without prior written consent of the Lessee, which consent shall not be unreasonably withheld or delayed, unless such Indemnified Person waives its rights to be indemnified with respect to such Indemnified Matter.

The Lessee further agrees to indemnify, protect and hold harmless each Indemnified Person 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 such Indemnified Party because of the use in or about the construction or operation of any of the Units of any article or material specified by the Lessee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the Builder and the Owner of any claim known to the Lessee from which liability may be charged against the Builder with respect to the foregoing.

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

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

None of the indemnities in this § 9 shall be deemed to create any rights of subrogation, from or under any Indemnified Party, in any insurer or third party against the Lessee or the Lessor therefor, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Units. The indemnities contained in this § 9 shall survive the expiration or termination of this Lease and the other Documents.

Upon the payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing (i) the Lessee shall be subrogated to any right of such Indemnified Party (except against another Indemnified Party) in respect of the matter against which indemnity has been given and (ii) any payments received by such Indemnified Party from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Party has been indemnified by the Lessee pursuant to this § 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter.

Each payment made pursuant to this § 9 shall be paid directly to the appropriate Indemnified Party.

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

(A) default shall be made in payment of any amount provided for in § 3(1), § 7 or § 13 hereof, and such default shall continue for seven business days;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof, and the Lessee shall, for more than 30 days after demand in writing by the Lessor, fail to secure a reassignment or retransfer to the Lessee of such lease, interest or right;

(C) default shall be made in the observance or performance of any other of the covenants, conditions

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

(D) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, the Participation Agreement, the Indemnity Agreement and the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed and otherwise in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, as the same may hereafter be amended; or

(E) any other proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Participation Agreement, the Indemnity Agreement or the Consent, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or thereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, the Participation Agreement, the Indemnity Agreement and the Consent shall not have been and shall not continue to have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or

not subject to ratification) for the Lessee, or for the property of the Lessee, in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(F) any of the Lessee's representations or warranties made herein, in the Participation Agreement or in the Consent or in any statement or certificate at any time given in writing pursuant hereto or thereto in connection herewith or therewith shall prove to have been incorrect in any material respect as of the date when made;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents, subject to compliance with all mandatory requirements of law, enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any such Units and henceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as liquidated damages for loss of the bargain and not as a penalty whichever of the following amounts the

Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 9% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (B) any damages and expenses, including reasonable attorneys' fees in addition thereto, which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the semiannual rent payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall not have recovered possession of such Unit, the sales value thereof, may, at the option of the Lessor, be deemed to be zero and; provided, further however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clause (y) of this part (B) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the semiannual rent payment date on or next preceding the date of termination, over the net proceeds of such sale. In the event the sales value of a Unit shall be deemed to be zero pursuant to the first proviso to clause (y) of the preceding sentence, and pursuant thereto the Lessee shall have paid to the Lessor, as liquidated damages, the full Casualty Value of such Unit together with all other amounts then due hereunder, the Lessor shall execute and deliver to the Lessee a bill of sale (on an "as is, where is basis" and without recourse, representation or warranty of any kind whatsoever, express or implied) for such Unit such as will transfer to the Lessee such title to such Unit as

the Lessor derived from the Builder, free and clear of all liens, security interests and other encumbrances created by or arising through the Lessor, in its individual or fiduciary capacity, or the Owner, which such party is required to pay or discharge pursuant to Paragraph 18 of the Participation Agreement, in the case of the Owner, and the proviso to the last paragraph of Article 12 of the CSA, in the case of the Lessor (in its individual or fiduciary capacity). In addition, promptly after the Lessee makes the payment of Casualty Value as aforesaid, the Fair Market Value of such Unit (as hereinafter defined) will be determined as of the next preceding semiannual rent payment date. If the Fair Market Value of such Unit as so determined exceeds the Casualty Value of such Unit paid as aforesaid, the Lessee shall, within 30 days after such determination, pay the amount of such excess to the Lessor. If the Lessor and the Lessee are unable to agree upon the Fair Market Value of such Unit, such value shall be determined in accordance with the procedure set forth in Section 13 hereof by a single appraiser appointed at the request of either the Lessor or the Lessee by the American Arbitration Association.

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

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

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

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Except as hereinafter provided, each Unit so delivered shall be in the condition required by the first sentence of § 7 and the last sentence of § 14 hereof. For the purpose of delivering possession, the Lessee shall:

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

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

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

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and, upon application to any court of equity having jurisdiction, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. Except as hereinafter provided, during any storage period, the Lessee will, at its own expense, maintain and keep the Equipment in the condition required by the first sentence of § 7 hereof and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All

rent and per diem charges earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

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

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor to any successor Lessor which may be appointed pursuant to Article VII of the Trust Agreement or to any banking or financial institution which has a combined capital and surplus of at least \$50,000,000 and which does not have an interlocking relationship with the Lessee within the meaning of Section 10 of the Clayton Act. Notwithstanding the foregoing, the Lessee shall be under no obligation to make payments other than as specified herein without written notice of such assignment. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's successors and assigns.

So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and, without the prior written consent of the Lessor and the Vendor, the Lessee may sublease (which sublease by its terms shall be subject to the rights and remedies of the Lessor and the Vendor hereunder) the Units to, or permit their use by, a user incorporated in the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia), or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains or over which their equipment is regularly operated pursuant to contract, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to

all the terms and conditions of this Lease; provided, however, that the Vendor's and the Lessor's consent, not to be unreasonably withheld, must be obtained for any sublease that, taken together with all renewal terms provided for therein, would be longer than six months during any period of 12 consecutive months; provided further, however, that the Lessee shall not sublease or permit the sublease or use of any Unit to service involving operation or maintenance outside the United States of America except that occasional service in Canada shall be permitted so long as such service in Canada is on a temporary basis which is not expected to exceed a total of 90 days in any taxable year of the Owner, nor shall the Lessee sublease to or permit the sublease or use of any Unit by any person in whose hands such Unit would not qualify as "section 38" property within the meaning of the Code. No such assignment or sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

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

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance created by the Lessor, the Owner or the Vendor which is not contemplated by the Documents or resulting from claims against the Vendor, the Lessor or the Owner not related to the ownership or leasing of, or the security title or security interest of the Vendor to, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Vendor, the Owner or the Lessor therein; except that this covenant will not be breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined

or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the opinion of the Lessor and the Vendor, in each case set forth in writing addressed to the Lessee, adversely affect the title, property or rights of the Lessor hereunder or the Vendor under the CSA.

§ 13. Renewal Option; Purchase Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by irrevocable written notice delivered to the Lessor not less than 180 days prior to the end of the original term or the first, second or third extended term of this Lease, elect to extend the term of this Lease in respect of all but not fewer than all the Units then covered hereby, for a period of two years commencing on the scheduled expiration of the original or such extended term of this Lease.

Each extended term of the Lease shall be on the same terms and conditions as are contained in this Lease, except (x) as to the amount of rentals, which shall be at a Fair Market Rental (as hereinafter defined) payable, in arrears, in semiannual payments on the dates on which such rentals were payable for the Units in each year of the original term and (y) that the Casualty Value of each Unit on the first day of such extended term shall be equal to the greater of (a) the Fair Market Value (as hereinafter defined) of such Unit on such date, or (b) the present value as of such date, of all rentals payable during such extended term, discounted at a rate of 9% per annum, compounded semi-annually, from the respective dates upon which such rentals are payable hereunder; and thereafter such Casualty Value shall be reduced on a straight-line basis (computed on the basis of reduction to zero over the estimated remaining useful life of such Unit which shall, if not agreed upon by the Lessor and the Lessee, be determined by appraisal in accordance with the procedure hereinafter set forth) for the remainder of such extended term, all as determined by the procedures hereinafter established.

"Fair Market Rental" shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in

possession) and an informed and willing lessor under no compulsion to lease and, in such determination, (i) it shall be assumed that the Units are in the condition and repair required by § 7 hereof, that they are free and clear of all liens, claims and encumbrances and that each Unit was in compliance with the load-box testing and horsepower rating requirements set forth in the last sentence of § 14, (ii) the value of the additions, modifications and improvements as to which Lessee retains title shall not be included and (iii) costs of removal from the location of current use shall not be a deduction from such value.

If, within 30 days following receipt of the notice required by the first paragraph hereof, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such Fair Market Rental shall be determined in accordance with the foregoing definition by the appraisal procedure described below.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, at the end of the original or any extended term of this Lease the Lessee may by irrevocable written notice delivered to the Lessor not less than 180 days prior to the end of such term of this Lease, elect to purchase all but not fewer than all the Units then covered by this Lease for the then "Fair Market Value" thereof as of the last day of such original or extended term of this Lease.

"Fair Market Value" shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer and an informed and willing seller under no compulsion to sell and, in such determination, (i) it shall be assumed that the Units are in the condition and repair required by § 7 hereof, that they are free and clear of all liens, claims and encumbrances, and that each Unit was in compliance with the load-box testing and horsepower rating requirements set forth in the last sentence of § 14, (ii) the value of the additions, modifications and improvements as to which the Lessee retains title shall not be included and (iii) costs of removal from the location of current use shall not be a deduction from such value.

If, after 30 days from the giving of notice by the Lessee of the Lessee's election to purchase or to extend this Lease or other event giving rise to the requirement to determine Fair Market Value or Fair Market Rental, as the case may be, the Lessor and the Lessee are unable to agree

upon a determination of the Fair Market Value or Fair Market Rental of the Units, as the case may be, such value shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 30 days after such notice is given, appoint a third independent appraiser. If no such third appraiser is appointed within 30 days after such notice is given, either party may apply to the American Arbitration Association to make such appointment, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Value or Fair Market Rental, as appropriate, of the Units within 60 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Value or Fair Market Rental, as appropriate, of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be final and binding upon the parties hereto as the Fair Market Value or Fair Market Rental, as appropriate. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Value or Fair Market Rental, as appropriate, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

Upon payment of the Fair Market Value of any Unit, pursuant to an exercise by the Lessee of its right to purchase such Units, the Lessor shall execute and deliver to the Lessee, or upon request of the Lessee, to the Lessee's assignee or nominee, a bill of sale (on an "as-is, where-is basis" and without recourse, representation or warranty of

any kind) for such Units such as will transfer to the Lessee such title to such Units as the Lessor derived from the Builder free and clear of all liens, security interests and other encumbrances created by or arising through the Lessor in its individual capacity or as Owner-Trustee or the Owner, which such party is required to pay or discharge pursuant to Paragraph 18 of the Participation Agreement, in the case of the Owner, and the proviso to the last paragraph of Article 12 of the CSA, in the case of the Lessor (in its individual capacity).

§ 14. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, other than pursuant to § 10 or in connection with the purchase of the Units by the Lessee pursuant to § 13 hereof, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit if not purchased by the Lessee, to the Lessor upon such storage tracks of the Lessee as the Lessee may reasonably designate in such city on the lines of the Lessee as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may reasonably select, and permit the Lessor to store such Unit on such tracks for a period not exceeding 120 days following notification to the Lessor by the Lessee that 90% of the Units have been assembled and delivered for storage (or, with respect to any Unit not delivered at the time of such notification, 60 days following notification from the Lessee to the Lessor that such Unit has been delivered for storage) and transport the same, at any time within such 120-day period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as mutually agreed upon by the Lessor and the Lessee, the movement and storage of such Units to be at the expense and risk of the Lessee (which shall during such period maintain the insurance required by § 7 hereof); and in the event that any Unit shall suffer a Casualty Occurrence during such storage period, the Lessee shall pay the Lessor the Casualty Value thereof as provided in § 7 hereof. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, on behalf of either the Lessor or any prospective purchaser, lessee or user, such rights of inspection. Each Unit returned to the Lessor pursuant to this § 14 shall (except

for additions, modifications and improvements which the Lessee is entitled to remove and does remove pursuant to § 9 hereof) be in the condition required by the first sentence of § 7 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own expense, maintain and keep the Units (except for additions, modifications and improvements which the Lessee is entitled to remove and does remove pursuant to § 9 hereof) in the condition required by the first sentence of § 7 hereof. Anything to the contrary contained in this § 14 notwithstanding, however, the Lessee shall have no obligation under clause (b) or clause (c) of the first sentence of § 7 hereof after the later of (i) the termination of the security interest of the Vendor under the CSA and (ii) the date of expiration of the term of this Lease. At the request of the Lessor, the Lessee will continue to store any Unit for an additional period of 90 days beyond the storage period determined pursuant to this § 14; provided, however, that such storage shall be at the risk and expense of the Lessor and for a reasonable storage charge to be mutually agreed upon by the Lessee and the Lessor. All rent and per diem charges earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. At the time the Lessee is required to deliver possession of any Unit to the Lessor pursuant to this § 14 or § 11 hereof, or within 30 days prior thereto, the Lessee will provide to Lessor a certificate stating that: (i) such Unit has been load-box tested by a qualified inspector not more than twelve months prior to the date of expiration of the term of this Lease and (ii) such Unit achieved a horsepower rating equal to or greater than 97% of the original design rating. In the event any Unit shall not meet the requirements of clauses (i) and (ii) above of the preceding sentence prior to time such Unit is required to be returned to the Lessor as aforesaid, the Lessee, at its sole expense, will take whatever necessary corrective action may be required so that such Unit complies fully with the requirements of clauses (i) and (ii) of the preceding sentence at the time of such required return.

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

such deposit to be given forthwith in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective rights and interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA and the assignments hereof and thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing, recording and other acts which may be required under this § 15, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the CSA, and the assignments thereof, shall be filed with the Interstate Commerce Commission and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision shall be made for publication of notice of such deposit in The Canada Gazette prior to the delivery and acceptance hereunder of any Unit.

§ 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount on the overdue rentals and other obligations for the period of time during which they are overdue at a rate of 12-1/2% per annum, or, if such rate is not legally enforceable, then at the highest legally enforceable rate.

§ 17. Notices. Any notice required or permitted hereunder shall be deemed to have been received by the addressee on the date of actual receipt (if such date is a business day, otherwise on the next business day), if transmitted by mail, telex, telecopy or similar transmission, or delivered by hand, addressed as follows:

(a) if to the Lessor, at 35 North Sixth Street, Reading, Pennsylvania 19603, Attention of Mrs. Doris Krick, Assistant Vice President with a copy to the Owner at its address set forth in Schedule A to the Participation Agreement; and

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

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

§ 18. Severability; Effect and Modification of Lease; Third-Party Beneficiaries. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

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

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

§ 19. Immunities. Anything herein to the contrary notwithstanding, each and all of the representations, warranties, undertakings and agreements herein made on the part of the financial institution acting as the Lessor are made and intended not as personal representations, warranties, undertakings and agreements by said financial institution for the purpose or with the intention of binding it personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said financial institution not in its own right but solely in the exercise

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

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

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

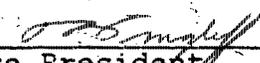
§ 22. Lessor's Right To Perform. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may (but shall have no obligation to do so) upon notice to the Lessee, and without releasing the Lessee from any of its obligations hereunder, perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor (including reasonable counsel fees, if any) incurred in connection with such performance or compliance, together with interest on such amount at 12-1/2% per annum, shall be payable by the Lessee upon demand. No such performance or compliance by the

Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder or, for the purpose of Article 15 of the CSA, be deemed to cure an Event of Default hereunder.

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

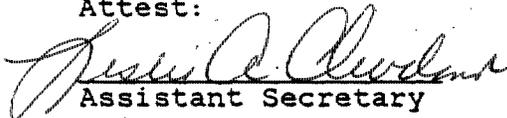
CHICAGO AND NORTH WESTERN  
TRANSPORTATION COMPANY,

by

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

[Corporate Seal]

Attest:

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

MERIDIAN TRUST COMPANY,  
not individually but solely  
as Trustee,

by

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

[Seal]

Attest:

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

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

On this <sup>November</sup> 11<sup>th</sup> day of ~~October~~ 1985, before me personally appeared D. G. Ringloff to me personally known, who, being by me duly sworn, says that he is a Vice President of CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Virginia L. Collins  
Notary Public

[Notarial Seal]

My Commission expires

5/4/87

COMMONWEALTH OF PENNSYLVANIA, )  
 ) ss.:  
COUNTY OF BERKS, )

On this            day of October 1985, before me personally appeared           , to me personally known, who, being by me duly sworn, says that he is a Vice President of MERIDIAN TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the seal of said trust company, and that said instrument was signed and sealed on behalf of said trust company by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said trust company.

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

[Notarial Seal]

My Commission expires

SCHEDULE A  
TO  
LEASE

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Road Numbers (Both Inclusive)*	Unit Base Price**	Total Base Price**	Estimated Time and Place of Delivery
Model SD-50 3,600 h.p. diesel electric locomotive	8115, Amendment 8115-3A and opening specifica- tion No. 847049 dated May 20, 1985	McCook, Illinois	8	CNW 7000 through CNW 7034	\$1,265,920*	\$10,127,360*	November- December, 1985, at Lessee's Proviso Yard at Melrose Park, Illinois

Automatic Train control to be supplied by Lessee	-	-	8	-	25,000	200,000
					\$1,290,920	\$10,327,360

\*The road numbers listed are for all Units to be delivered under this lease and the two other leases dated as of the date hereof to which the Lessee and Meridian Trust Company, in a trust capacity, are parties. After all the Units have been delivered and accepted hereunder, an appropriate amendment to this Schedule A will be filed with the Interstate Commerce Commission to reflect the road numbers of the Units actually delivered and accepted hereunder.

\*\*Including prepaid freight charges estimated to be \$920 per Unit to Melrose Park, Illinois. Such Base Price will be subject to reduction by an amount not to exceed \$116,000 per Unit for deliveries after 12/31/85 pursuant to the terms of the Purchase Order.

SCHEDULE B

Rental Payments

<u>Date</u>	<u>Percentage of Purchase Price*</u>
8/1/86	3.338475%
2/1/87	5.132639
8/1/87	3.235311
2/1/88	5.235804
8/1/88	3.120282
2/1/89	5.350832
8/1/89	2.992026
2/1/90	5.479089
8/1/90	2.849020
2/1/91	5.622094
8/1/91	2.712710
2/1/92	5.758404
8/1/92	2.617410
2/1/93	7.735912
8/1/93	2.451698
2/1/94	7.901624
8/1/94	3.770163
2/1/95	6.583159
8/1/95	3.646937
2/1/96	6.706385
8/1/96	7.128853
2/1/97	3.224469
8/1/97	8.955408
2/1/98	1.397914
8/1/98	9.413364
2/1/99	0.939958
8/1/99	9.930309
2/1/00	0.423013
8/1/00	10.353322
2/1/01	0.000100

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\* As defined in Article 4 of the CSA.

SCHEDULE C

Casualty Value Percentage Schedule

Table 1

<u>Date</u>	<u>Percentage of Purchase Price*</u>
2/1/86	87.995230
8/1/86	87.426476
2/1/87	88.239508
8/1/87	89.720270
2/1/88	89.795226
8/1/88	90.737611
2/1/89	90.025210
8/1/89	90.391039
2/1/90	88.825481
8/1/90	88.825483
2/1/91	86.911703
8/1/91	86.943107
2/1/92	83.965333
8/1/92	84.015911
2/1/93	79.006811
8/1/93	79.064117
2/1/94	73.738141
8/1/94	72.301725
2/1/95	68.044474
8/1/95	66.558029
2/1/96	62.002621
8/1/96	56.852040
2/1/97	55.400559
8/1/97	48.231830
2/1/98	48.322204
8/1/98	40.543349
2/1/99	40.926854
8/1/99	32.493886
2/1/00	33.232467
8/1/00	24.214249
2/1/01 and thereafter	25.000000

---

\* As defined in Article 4 of the CSA. If the Casualty Occurrence occurs on or before the fifth anniversary of the date of the acceptance of the Unit hereunder, add the appropriate percentage shown in Table 2.

Table 2

The percentages set forth in Table 1 of this Schedule C have been computed without regard to recapture of the Investment Tax Credit. Consequently, the percentages set forth in said Table 1 for any Unit suffering a Casualty Occurrence on or before the fifth anniversary of its date of acceptance hereunder shall be increased by the applicable percentage of the Purchase Price set forth below (such amount to be determined as of the actual date of such Casualty Occurrence):

<u>Anniversary</u>	<u>Percentage of Purchase Price</u>
First	18.518518
Second	14.814814
Third	11.111111
Fourth	7.407407
Fifth	3.703703

SCHEDULE D

Termination Value Percentage Schedule

<u>Date</u>	<u>Percentage of Purchase Price*</u>
8/1/91	86.943107
2/1/92	83.965333
8/1/92	84.015911
2/1/93	79.006811
8/1/93	79.064117
2/1/94	73.738141
8/1/94	72.301725
2/1/95	68.044474
8/1/95	66.558029
2/1/96	62.002621
8/1/96	56.852040
2/1/97	55.400559
8/1/97	48.231830
2/1/98	48.322204
8/1/98	40.543349
2/1/99	40.926854
8/1/99	32.493886
2/1/00	33.232467
8/1/00	24.214249
2/1/01 and thereafter	25.000000

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\* As defined in Article 4 of the CSA.

SCHEDULE E

Certificate of Inspection and Acceptance

To: Meridian Trust Company, acting as Trustee (the  
"Lessor") under Trust Agreement No. 1  
35 North Sixth Street  
Reading, Pennsylvania 19603

I, the duly authorized representative for the Lessor and Chicago and North Western Transportation Company (the "Lessee") under the Conditional Sale Agreement No. 1 and the Lease of Railroad Equipment No. 1, both dated as of September 1, 1985, do hereby certify that the following Units of Equipment have been inspected and I have accepted delivery of such Units thereunder:

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

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

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

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

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

\_\_\_\_\_  
Authorized Representative of  
Lessor and Lessee

BUILDER:

General Motors Corporation  
(Electro-Motive Division)

SCHEDULE F

Assumptions

- (1) The Units (including ATCs installed thereon and settled for under the Participation Agreement) will be settled for on the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>
December 10, 1985	15/35th of the aggregate Purchase Price of the Units
December 30, 1985	20/35th of the aggregate Purchase Price of the Units

- (2) The costs and expenses payable by the Owner pursuant to Paragraph 13 (a) of the Participation Agreement will equal .492% of the aggregate Purchase Price of the Units.
- (3) The income paid or credited to the Vendee on the Investments (as defined in Paragraph 2 of the Participation Agreement) pursuant to the Participation Agreement will be paid on February 1, 1986, and will be in an amount equal to 0.908% of the aggregate Purchase Price of the Units.
- (4) The amount payable by the Vendee on February 1, 1986, pursuant to the fourth paragraph of Article 4 of the CSA in respect of interest on the CSA Indebtedness will be equal to 2.22565% of the aggregate Purchase Price of the units.

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[CS&M Ref. 2046-102]

LEASE OF RAILROAD EQUIPMENT NO. 1

Dated as of September 1, 1985

Between

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY,  
Lessee,

and

MERIDIAN TRUST COMPANY,  
not in its individual capacity but solely as Owner-Trustee  
Under the Trust Agreement No. 1 dated as of the date hereof,  
Lessor

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

[Covering 8 GMC-EMD SD-50 Diesel Electric Locomotives]

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

LEASE OF RAILROAD EQUIPMENT NO. 1 dated as of September 1, 1985, between CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, a Delaware corporation (the "Lessee"), and MERIDIAN TRUST COMPANY, a Pennsylvania trust company, not individually but solely as trustee (the "Lessor") under a Trust Agreement No. 1 dated as of the date hereof (the "Trust Agreement"), with the party named in Schedule A to the Participation Agreement hereinafter mentioned (the "Owner").

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof (the "CSA") with GENERAL MOTORS CORPORATION (Electro-Motive Division) (the "Builder"), wherein the Builder has agreed to manufacture and conditionally sell to the Lessor the units of railroad equipment described in Part A of Schedule A hereto to which may be attached the automatic train controls ("ATCs") specified in Part B of Schedule A hereto (the units of railroad equipment together with the ATCs settled for under the Participation Agreement defined below, are hereafter called the "Equipment");

WHEREAS the Builder is assigning its interests in the CSA to Mercantile-Safe Deposit and Trust Company, acting as agent (said Company, as so acting, being hereinafter together with its successors and assigns, called the "Vendor") under a Participation Agreement No. 1 dated as of the date hereof (the "Participation Agreement") with the Lessee, the Lessor, the Owner, and the parties named in Schedule B thereto (said parties, together with their successors and assigns, being hereinafter called the "Investors");

WHEREAS the Lessee desires to lease such number of units of Equipment as are delivered to and accepted by the Lessor and settled for under the CSA (together with the ATCs installed thereon and settled for under the Participation Agreement, the "Units") at the rentals and upon the terms and conditions hereinafter provided; and

WHEREAS the parties contemplate that the Lessor will assign, for security purposes, certain of its rights in this Lease to the Vendor by an Assignment of Lease and Agreement No. 1 dated as of the date hereof (the "Lease Assignment"), and the Lessee will consent thereto by a Lessee's Consent and Agreement No. 1 (the "Consent");

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

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or additional rent, or setoff against or recoupment or reduction of rent or additional rent, including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor or the Owner under this Lease or under the CSA, or against the Owner, the Builder or the Vendor or otherwise. The Lessee's obligations hereunder, including its obligations to pay all rentals, additional rentals and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect, whether latent or patent, in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever; provided, however, that nothing contained herein shall prevent the Lessee from bringing an action for damages suffered by the Lessee as a result of a breach by any person

of any obligation of such person under any of the Documents (as defined in the Participation Agreement).

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

§ 3. Rentals. (1) The Lessee agrees to pay the Lessor, as basic rental for each Unit subject to this Lease, 30 consecutive semiannual payments, payable in arrears, on February 1 and August 1 in each year commencing August 1, 1986, to and including February 1, 2001. The 30 semiannual rental payments shall each be in an amount equal to the percentage set forth in Schedule B hereto for the applicable payment date multiplied by the Purchase Price (as defined in Article 4 of the CSA) of each Unit subject to this Lease.

(2) The Lessee also agrees to pay, as supplemental rentals, (i) to the Lessor an amount equal to any Investment Deficiency (as defined in Paragraph 2 of the Participation Agreement) at the time such Investment Deficiency is payable under Paragraph 2 of the Participation Agreement, (ii) to the Lessor an amount equal to any amount payable by the Lessor under clauses (a) or (b) of the second paragraph of Paragraph 10 of the Participation Agreement at the time such amount is payable and (iii) all other amounts, liabilities and obligations which the Lessee assumes or agrees to pay

hereunder, under the Participation Agreement or under the Indemnity Agreement (as defined in the Participation Agreement) to the Lessor or others.

The percentages with respect to basic lease rentals specified in Schedule B hereto, the percentages with respect to Casualty Values specified in Schedule C hereto and the percentages with respect to Termination Values specified in Schedule D hereto (herein collectively called the "Percentages") are based upon the accuracy of the Assumptions set forth in Schedule F hereto and the assumptions set forth in Section 1 of the Indemnity Agreement. If for any reason any of the Assumptions set forth in Schedule F hereto shall be incorrect or inaccurate, the Percentages shall be adjusted (upward or downward, as the case may be) to the extent, if any, as shall be necessary to preserve the Owner's Net Economic Return (as hereinafter defined). The Percentages are also subject to adjustment (but without duplication) from time to time as provided in Paragraph 19 of the Participation Agreement and in the Indemnity Agreement. Notwithstanding anything herein or in any other Document to the contrary, no such adjustment shall be required pursuant to the Indemnity Agreement, the Participation Agreement or this Lease to the extent such adjustment has already been made under any other Document.

"Net Economic Return", as used herein, shall mean the Owner's (i) after-tax yield and (ii) net present value of and general pattern of net after-tax cash flows in each case as determined by the Owner on the date the Participation Agreement is executed on the basis of the Assumptions set forth in Schedule F to this Agreement and of the assumptions set forth in Section 1(a) of the Indemnity Agreement; provided, however, that if the Percentages are adjusted from time to time pursuant to the second succeeding paragraph, the Net Economic Return shall thereafter take into account the effect of any such adjustment.

If any of the assumptions set forth in Section 1(a) of the Indemnity Agreement is incorrect or inaccurate on or prior to the date that any Unit of Equipment or the ATC installed thereon is delivered and accepted under the Lease, the Percentages with respect to such Unit of Equipment and/or such ATC, as the case may be, shall be adjusted upward or downward, as the case may be, by such amount as will, in the reasonable opinion of the Owner, preserve the Owner's Net Economic Return with respect to such Unit of Equipment and/or such ATC.

If because of amendment to the Internal Revenue Code of 1954, as amended (the "Code"), enacted by the 99th Congress, the highest marginal statutory rate of Federal income tax generally applicable to corporations is from time to time other than 46%, or if the Owner is required to take into income any amounts measured by reference to the excess of the depreciation claimed by the Owner with respect to the Equipment in accordance with the schedule for 5-year property contained in Section 168(b)(1) of the Code over the depreciation that would have been allowed with respect to the Equipment under a straight-line method of depreciation, then as of the first semiannual rent payment date hereunder following by at least 30 days the later of the date of enactment or of such change, the Percentages shall be adjusted (upward or downward as the case may be) as follows:

(A) calculate the revised after-tax yield to the Owner utilizing the basic rental Percentages as adjusted pursuant to the Documents (other than this paragraph) after taking into account such change in the Code;

(B) determine the arithmetic average of (i) the after-tax yield determined in (A) above and (ii) the after-tax yield to the Owner referred to in the definition of "Net Economic Return" (excluding the proviso thereto); and

(C) prepare revised schedule of basic rent Percentages and Casualty Value and Termination Value Percentages in a manner that will result in the same after-tax yield to the Owner as the arithmetic average determined in (B) above.

Any adjustments of the Percentages referred to in the preceding paragraphs of this § 3 shall be determined by the Owner in accordance with the applicable provisions of this § 3 and if applicable Paragraph 19 of the Participation Agreement, and the Owner shall deliver to the Lessor, the Lessee and the Agent (A) schedules setting forth the revised Percentages and (B) a statement by the Owner as to the computation of such revised Percentages and to the effect that the revised Percentages have been determined pursuant to, and in compliance with, the requirements set forth in this § 3, or, if applicable, Paragraph 19 of the Participation Agreement or the Indemnity Agreement.

The Lessor and the Lessee shall execute and deliver an amendment to this Lease to reflect each adjustment

referred to in this § 3, provided that the failure to execute and deliver an amendment shall not affect any such adjustment and any such adjustment shall be effective notwithstanding that no such amendment is executed and delivered.

Any recomputation of basic rent Percentages pursuant to this § 3 shall, among other things, be in amounts that will satisfy the provisions of Revenue Procedure 75-21 and Revenue Procedure 75-28.

Upon the occurrence of any event requiring an adjustment to any Percentages pursuant to this § 3 or Paragraph 19 of the Participation Agreement or the provisions of the Indemnity Agreement, the Owner shall make the necessary computations and shall furnish to the Lessor, the Lessee and the Agent the schedules and statement referred to in the third preceding paragraph. The Lessee agrees that it will have no right to inspect the tax returns or any other document of Lessor or the Owner or any affiliate thereof in order to verify the basis or the accuracy of calculations so made or of the revised Percentages so set forth and that the determinations so made by the Owner shall be conclusive and binding on Lessee; provided, however, that upon written request by Lessee, the Owner shall deliver to the Lessee (with a copy to the Lessor) a certificate of its chief accounting officer confirming that such revised Percentages, as set forth in such written statement, are accurate and in conformity with the provisions of this § 3 and, if applicable, Paragraph 19 of the Participation Agreement and/or the Indemnity Agreement.

Anything in the foregoing provisions of this § 3 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3 on each rental payment date and the Casualty Values and Termination Values payable hereunder shall in no event be less than the principal and interest payment due on each such date pursuant to the CSA.

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

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this § 3 and in § 7 hereof, but excluding all payments not assigned to the Vendor pursuant to the Lease Assignment, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor, to apply such payments in accordance with the provisions of the Lease Assignment until the Vendor notifies the Lessee that the CSA is no longer in effect. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds to the Vendor by 11:00 a.m., Baltimore time, on the date such payment is due.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on February 1, 2001. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 3, 6, 7, 9 and 14 hereof) shall survive the expiration or termination of the term of this Lease and the full payment of all amounts payable under this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSA; and if an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination), all as provided therein without affecting the obligations which by the provision of this Lease survive the termination of the term; provided, however, that, so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 12 hereof.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule A hereto, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", with appropriate changes thereof as from time to time may be required by law, in the opinion of the Vendor and the Lessor, in order

to protect the Lessor's and the Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and the rights of the Vendor under the CSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced, obliterated or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed and deposited, that such filing and deposit will protect the Vendor's and the Lessor's rights in such Units and that no other filing, deposit or giving of notice with or to any government or agency thereof in the United States or Canada is necessary to protect the rights of the Vendor and the Lessor in such Units.

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

§ 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee shall pay, and shall indemnify, protect, save and keep harmless the Lessor (in both its individual and fiduciary capacities), the Owner, the Vendor, the Investors and the Trust Estate, as defined under the Trust Agreement, (referred to collectively, together with their respective agents, servants, successors and assigns, as "Indemnified Persons" and individually as an "Indemnified Person") from and against any and all fees or taxes (including, without limitation, gross receipts, income, franchise, excise, sales, use, documentation, license, registration, occupational, capital, net worth, asset based, value-added, property (whether personal, real, tangible or intangible) and stamp taxes or fees and taxes imposed in respect of items of tax preference), levies, assessments, imposts, duties, charges or withholdings of any nature whatsoever, together with any penalties, additions to tax, fines or interest thereon imposed against such Indemnified Person, the Lessee or the Equipment or any part thereof by any Federal, state or local government or taxing authority

or by any foreign government, foreign governmental subdivision or other foreign taxing authority (i) upon or with respect to the Equipment or any part thereof or any interest therein or in any part thereof, or (ii) upon or with respect to the manufacture, acquisition, construction, installation, maintenance, repair, purchase, acceptance, delivery, redelivery, nondelivery, rejection, ownership, encumbrance, imposition or existence of a lien or encumbrance, liability for payment or payment with respect to a lien or encumbrance which the Lessee is required to discharge pursuant to § 12 hereof, lease, rental, sublease, financing or refinancing by or at the request of the Lessee or pursuant to the Documents, assembly, possession, repossession, use, operation, transportation, importation, exportation, return, abandonment, sale, transfer, passage of title, replacement, rebuilding, modification, storage or disposition, in each such case of the Equipment or any part thereof, or (iii) upon or with respect to the rentals, receipts, proceeds, earnings or gains arising from the Equipment or any part thereof or the income or proceeds with respect to the Equipment, including, without limitation, principal, interest and other amounts payable on the CSA Indebtedness; provided, however, that this § 6 shall not be construed as a guaranty by the Lessee or any affiliate or subsidiary of the Lessee of (A) payment of the debt service on the CSA Indebtedness or (B) any residual value of the Equipment at the end of the original term or any renewal term under this Lease, (iv) upon or with respect to this Lease or any other of the Documents (as defined in the recitals to the Participation Agreement), (v) upon or with respect to any aspect of the transactions contemplated by the Documents, or (vi) upon or with respect to the issuance, acquisition or transfer of the CSA Indebtedness (all of the foregoing being herein collectively referred to as "Taxes" or individually referred to as a "Tax"); excluding, however: (1) Taxes imposed by the United States of America which are based on or measured by the net income or excess profits of any Indemnified Person (or value-added Taxes imposed in lieu of such net income or excess profits Taxes); (2) Taxes based on or measured by the net income or excess profits of any Indemnified Person (or Taxes in the nature of franchise, capital, value-added, net worth or asset based Taxes imposed in lieu of said net income or excess profits Taxes) which are imposed upon such Indemnified Person by the state, city or municipality in which the principal office of such Indemnified Person is located or by the political subdivision of such state, city, municipality or taxing authority in which the principal office of such Indemnified Person is located; (3) Taxes based

on or measured by the net income of any Indemnified Person which are imposed by a state, city or municipality or taxing authority in which such Indemnified Person (and, in the case of the Owner, any other corporation with which the Owner files a consolidated tax return in such jurisdiction) is subject to net income taxes to the extent such Taxes are imposed for reasons other than the transactions contemplated by the Documents; (4) Taxes imposed on or for the account of any Indemnified Person that result from acts of such Indemnified Person that constitute the gross negligence or willful misconduct of such Indemnified Person; (5) Taxes which are imposed with respect to any period, or with respect to any act, occurring after the termination of this Lease and the return of the Equipment to the Lessor in accordance with § 14 of this Lease (unless such termination shall have occurred pursuant to § 10 of this Lease); (6) Taxes for which the Lessee is obligated to indemnify and has indemnified (A) the Owner pursuant to the Indemnity Agreement or (B) an Indemnified Person pursuant to another Document; (7) in the case of the Owner or the Lessor, as the case may be, so long as no Event of Default shall have occurred and be continuing, Taxes imposed upon or with respect to the voluntary transfer by such person of any of its interest in the Equipment, the Lease or the Trust Estate; (8) Taxes to the extent arising solely from an act or failure to act by the Owner or the Lessor or their agents or servants, if such act or failure to act is in violation of the obligations of the Owner or the Lessor under the Documents or is not related to the transactions contemplated by the Documents or the enforcement thereof and is not otherwise indemnified by the Lessee; provided, however, that the exclusions in the foregoing clauses (7) and (8) shall not apply to any indemnity payment payable hereunder to the Vendor or the Investors; (9) Taxes imposed by a foreign government or taxing authority or governmental subdivision of a foreign country to the extent such Taxes are utilized by an Indemnified Person as a credit against United States Federal income taxes otherwise payable by such Indemnified Person, assuming for this purpose that such Indemnified Person utilizes as credits (A) first, all foreign taxes (including foreign taxes which are carried over to the taxable year for which a determination is being made) other than those described in the succeeding clause (B), and (B) then, all foreign taxes (including foreign taxes which are carried over to the taxable year for which a determination is being made) for which such Indemnified Person is entitled to obtain indemnification pursuant to this Lease or the Indemnity Agreement; provided, however, that if the utilization by such Indemnified Person of foreign taxes otherwise payable by the Lessee, as a credit against such Indemnified Person's United

States Federal income taxes, later results in the expiration of any foreign tax credit carryovers or carrybacks of such Indemnified Person that would not otherwise have expired, then the amount of such carryovers or carrybacks shall be treated as Taxes to which this § 6 applies; and provided, further, however, that all determinations as to the utilization of Taxes as credits, and as to whether such creditable Taxes are to be excluded from the Lessee's indemnity under this § 6 pursuant to this clause (9), shall be made by such Indemnified Person and shall be conclusive and binding on the Lessee if the chief accounting officer of such Indemnified Person certifies in writing to the Lessee that such determinations were made in good faith compliance with the provisions of this clause (9); and (10) Taxes imposed on, measured by, or with respect to the fees or compensation received by the Vendor or the Lessor with respect to the transactions contemplated by the Documents; provided, however, that the Lessee agrees to pay any Taxes referred to in the foregoing clauses (1) through (10) hereof to the extent such Taxes are in substitution for or relieve the Lessee from any Taxes which the Lessee would be obligated to pay under the terms of this § 6.

Any payment by the Lessee pursuant to this § 6 shall include such additional amounts as are necessary to hold the Indemnified Person receiving such payment harmless on a net after-tax basis (taking into account any tax benefit or detriment realized by such Indemnified Person as a result of the payment by such Indemnified Person of the expense indemnified against or as a result of such payment) from any and all taxes of any kind (including Taxes excluded from this § 6 pursuant to clauses (1) through (10) of the preceding paragraph) required to be paid by such Indemnified Person as a result of such payment.

In the event any returns, statements or reports with respect to any Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor, the Owner and the Vendor in the Equipment, and in such manner as shall be satisfactory to the Lessor, the Owner and the Vendor. If the Lessee is not permitted to make such returns, statements and reports, the Lessee will notify the Lessor, the Owner and the Vendor of such requirement and will prepare such returns, statements and reports in such manner as shall be satisfactory to the Lessor, the Owner and the Vendor and the Lessee will deliver such returns, statements and reports to the Lessor, the Owner and the Vendor within a reasonable

period of time prior to the time such reports are required to be filed.

The Lessee agrees to keep the Equipment free and clear of any Taxes imposed solely on and payable solely by the Lessee which would adversely affect the title of the Lessor or the interest of the Owner in the Equipment, or the rights of the Vendor under the CSA, or would result in a lien upon the Equipment (except if the Lessee shall have adequately bonded such lien or otherwise protected the interests of such Indemnified Person in a manner satisfactory to such Indemnified Person). Subject to the Lessee's obligation under the preceding sentence, the Lessee is not required to pay any Tax during the period that the Lessee is contesting, or an Indemnified Person is required to contest, such Tax pursuant to the terms of this § 6 and the lessee shall have the right to contest in its own name any Tax which is imposed solely on and payable solely by the Lessee.

If a written claim shall be made against any Indemnified Person for any Tax which the Lessee is obligated to indemnify pursuant to this § 6, such Indemnified Person shall notify the Lessee promptly upon becoming aware of such claim (but the failure to so notify the Lessee shall not affect the Lessee's obligations hereunder except to the extent such failure results in an adverse effect on the ability of the Lessee to contest such Tax). If the Lessee shall so request, within 30 days after receipt of such notice, such Indemnified Person shall in good faith and with due diligence at the Lessee's sole expense contest the imposition of such Tax; provided, however, that such Indemnified Person may in its sole discretion select the forum for such contest and determine whether any such contest shall be by (i) resisting payment of such Tax, (ii) paying such Tax under protest or (iii) paying such Tax and seeking a refund thereof; and provided, further, however, that at such Indemnified Person's option, and subject to the preceding clauses (i) through (iii) such contest shall be conducted by the Lessee in the name of such Indemnified Person.

In no event shall such Indemnified Person be required or the Lessee permitted to contest the imposition of any Tax (other than a Tax imposed solely on and payable solely by the Lessee) which the Lessee is obligated to indemnify pursuant to this § 6 unless: (i) the Lessee shall have acknowledged its liability to such Indemnified Person for an indemnity payment pursuant to this § 6 as a result of such claim if and to the extent such Indemnified Person or

the Lessee, as the case may be, shall not prevail in the contest of such claim; (ii) such Indemnified Person shall have received from the Lessee (A) an indemnity satisfactory to such Indemnified Person for any liability, expense or loss arising out of or relating to such contest and (B) an opinion of tax counsel selected by the Lessee and approved by the Indemnified Person, furnished at the Lessee's sole expense, to the effect that a reasonable basis exists for contesting such claim; (iii) the Lessee shall have agreed to pay such Indemnified Person on demand all reasonable costs and expenses that such Indemnified Person may incur in connection with contesting such claim (including, without limitation, all costs, expenses, losses, legal and accounting fees, disbursements, penalties, interest and additions to tax); (iv) such Indemnified Person shall have determined that the action to be taken will not result in any danger of sale, forfeiture or loss of, or the creation of any lien (except if the Lessee shall have adequately bonded such lien or otherwise protected the interests of such Indemnified Person in a manner satisfactory to such Indemnified Person) on, the Equipment or any portion thereof or any interest therein; and (v) if such contest shall be conducted in a manner requiring the payment of the claim, the Lessee shall have paid the amount required.

Notwithstanding anything contained in this § 6 to the contrary, no Indemnified Person shall be required to contest any claim if the subject matter thereof shall be of a continuing or recurring nature and shall have been previously and finally decided pursuant to the contest provisions of this § 6 unless (A) there shall have been a change in the law (including, without limitation, amendments to statutes or regulations, administrative rulings and court decisions) enacted, promulgated or effective after such claim shall have been previously so decided, and (B) such Indemnified Person shall have received an opinion of tax counsel selected by the Lessee and approved by the Indemnified Person, furnished at the Lessee's sole expense, to the effect that such change is favorable to the position which such Indemnified Person or the Lessee, as the case may be, has asserted in such previous contest and that there consequently exists a reasonable basis for contesting such claim.

An Indemnified Person shall not enter into a settlement or other compromise with respect to any indemnified Tax without prior written consent of the Lessee, which consent shall not be unreasonably withheld or delayed, unless such Indemnified Person waives its right to be indemnified with respect to such Tax under this § 6. If an Indemnified

Person shall obtain a repayment of any Tax paid by the Lessee pursuant to this § 6, such Indemnified Person shall, so long as no Event of Default, or event which with the lapse of time or the giving notice or both would constitute an Event of Default, shall have occurred and be continuing, promptly pay to the Lessee the amount of such repayment, together with any interest (other than interest for the period, if any, after such Tax was paid by such Indemnified Person until such Tax was paid or reimbursed by the Lessee) received by such Indemnified Person on account of such repayment.

The provisions of this § 6 shall survive the expiration or termination of this Lease and the other Documents.

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

In the event that any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, or permanently rendered unfit for use, from any cause whatsoever, permanently returned to the Builder pursuant to any patent indemnity provision of the CSA, or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or for an indefinite period, but only when such period shall exceed the term hereof (or, if such taking, requisition or condemnation shall occur during a renewal term, for a stated period which shall exceed the then remaining renewal term or for an indefinite period, but only when such period shall exceed such renewal term), or by any other government or governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days (such occurrences being hereinafter called "Casualty Occurrences"), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully

notify the Lessor, the Owner and the Vendor with respect thereto. On the semiannual Rent Payment Date or February 1, 1986, next succeeding such notice (the "Casualty Payment Date"), the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on the Casualty Payment Date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the Casualty Payment Date. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or permanent return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

The "Casualty Value" of each Unit as of any semiannual rent payment date or February 1, 1986, shall mean an amount equal to the percentage of the Purchase Price of such Unit as is set forth in Table 1 of Schedule C hereto opposite such date plus the amount, if any, determined as provided in Table 2 to said Schedule C.

Whenever any Unit shall suffer a Casualty Occurrence after the final payment of basic rent in respect thereof is due pursuant to § 3 hereof and before (a) such Unit shall have been returned in the manner provided in § 15 hereof, and (b) the storage period therein provided with respect to such Unit shall have expired, the Lessee shall promptly (as provided above) and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall, except as otherwise provided in § 13 hereof, be an amount equal to 25% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit or return to the Builder of such Unit), the Lessor shall be entitled to recover possession of such Unit.

In the event of the requisition (other than a requisition which constitutes a Casualty Occurrence) for use by the United States Government or by any other government or governmental entity (hereinafter collectively called the "Government") of any Unit during the term of this Lease or any renewal thereof, all of the Lessee's obligations (including, without limitation, the obligation to pay rent) under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at

the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee, provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence, or any component thereof, at the best price obtainable on an "as is, where is" basis and the Lessee shall notify the Lessor and the Owner prior to any such sale. Provided that the Lessee has previously paid the Casualty Value to the Lessor and provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit plus the Lessee's out-of-pocket expenses in connection with such sale and shall pay any excess to the Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit permanently returned to the Builder pursuant to any patent indemnity provision of the CSA an amount equal to any net patent indemnity payment in respect of such Unit made by the Builder under the CSA. The Lessee will pay all costs and expenses in connection with the sale of any Unit pursuant to a Casualty Occurrence.

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

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained with insurers customarily and regularly insuring against similar risks in the industry all-risk physical damage insurance and comprehensive general liability insurance in respect of the Units at the time subject hereto, in amounts (including with respect to self insurance) and against risks customarily insured against by

prudent railroad companies in respect of similar equipment and, in any event, in amounts (including with respect to self insurance) and against risks, and with no greater deductibles than, insured against by the Lessee in respect of similar equipment owned or leased by it. Any policies of insurance carried in accordance with this paragraph shall name the Lessor, the Owner and the Vendor as additional insureds, in the case of general comprehensive liability insurance, as their respective interests may appear, and the Lessee agrees that, upon the occurrence of an Event of Default hereunder, it shall cause such policies to provide that the Lessor, the Owner and the Vendor shall be named as loss payees, in the case of all-risk physical damage insurance and shall provide for 30 days' (except 10 days' for non-payment of premium) prior written notice to the Lessor, the Owner and the Vendor of any material change or cancelation. All policies of insurance carried in accordance with this paragraph shall provide that neither the Owner, the Lessor nor the Vendor shall be liable for premiums or commissions and further shall provide that such policies of insurance shall be primary and shall not require contribution from any single interest insurance, contingent insurance or excess value insurance which may be carried by the Owner, the Lessor or the Vendor. In the case of all-risk physical damage insurance, in the event that such policies contain breach of warranty provisions in respect of the Equipment or similar equipment owned or leased by the Lessee, such policies of insurance shall provide (but only to the extent such provisions are available to the Lessee without undue expense or to the extent such provisions are offered by the Lessee to any other creditor or lessor with respect to similar equipment owned or leased by the Lessee) that in respect of the interests of the Lessor, the Owner and the Vendor in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or its representatives and shall insure the Lessor, the Owner and the Vendor regardless of any breach or violation of any warranty, declaration, representation or condition contained in such policies by the Lessee or its representatives, and, in the case of comprehensive general liability insurance, shall provide that all the provisions of such policies of insurance, except that limits of liability, shall operate in the same manner as if there were a separate policy covering each insured. Nothing in this § 7 shall prohibit the Owner from maintaining, at its own expense, additional insurance for its own account with respect to the Equipment or be deemed to impose on the Owner any obligation to verify the accuracy or adequacy of insurance coverages maintained by the Lessee. If the Lessor shall receive any

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

In the event that the Lessee shall, in its reasonable judgment evidenced by a resolution of its Board of Directors, determine that the Units have become economically obsolete in the Lessee's business or shall be surplus to its requirements, the Lessee shall have the right, on at least 180 days' prior written notice to the Lessor, to terminate this Lease as to all, but not less than all, Units then subject to this Lease, as of any succeeding basic rental payment date specified in such notice (hereinafter called the "Termination Date"); provided, however, that (i) the Termination Date shall not be earlier than August 1, 1991, (ii) each holder of CSA Indebtedness shall have consented to such termination or CSA Indebtedness shall not be outstanding, (iii) no Event of Default or other event which after lapse of time or notice or both would become an Event of Default shall have occurred and be continuing, and (iv) on the Termination Date each Unit shall be in the same condition as if redelivered in accordance with the requirements of § 14 hereof. During the period from the termination notice until the fifth business day preceding the Termination Date, the Lessee shall use its best efforts to, and the Lessor may if it so chooses, obtain bids for the purchase of all the Units, and the Lessee shall at least five business days prior to such Termination Date certify to the Lessor the amount of each such bid and the name and address of the party submitting such bid (which shall not be the Lessee or an affiliate thereof or any person from whom the Lessee or any such affiliate intends to lease such Units). On the Termination Date the Lessor may elect to sell all the Units for cash to the bidder who shall have

submitted the highest bid prior to the Termination Date. The total sale price realized at any such sale shall be retained by the Lessor and on the Termination Date the Lessee shall pay to the Lessor (i) the excess, if any, of the Termination Value for each Unit computed as of such date over the sale price of the Unit after the deduction of all expenses incurred by the Lessor in connection with the sale and (ii) the rental payment due on the Termination Date and all other amounts due hereunder on or before the Termination Date. The Termination Value of each Unit as of the Termination Date shall be that percentage (as may be adjusted pursuant to § 3 hereof) of the Purchase Price of the Unit as is set forth in Schedule D hereto opposite such date. The Lessor may, however, by written notice to the Lessee given prior to the Termination Date, elect to retain all the Units, in which case (i) the Lessee shall not be obligated to pay the Termination Value to the Lessor and (ii) the Lessee shall deliver all the Units to the Lessor in accordance with the provisions of § 14 hereof. Upon payment of the purchase price for the Units by the purchaser thereof, the Lessor shall execute and deliver to the purchaser a bill of sale (on an "as-is, where-is" basis and without recourse, representation or warranty of any kind except as hereinafter stated) for the Units such as will transfer to the purchaser such title to the Units as the Lessor derived from the Builder, free and clear of all liens, security interests and other encumbrances arising through the Lessor, in its individual or fiduciary capacity, or the Owner, which such parties are required to pay or discharge pursuant to Section 18 of the Participation Agreement or the proviso to the third paragraph of Article 12 of the CSA, as the case may be. If no sale shall occur, this Lease shall continue in full force and effect without change as if the notice of termination had never been given.

§ 8. Reports and Inspection. On or before April 30 in each year or May 31 in each year in the case of the following clauses (a)(iii) and (b), commencing with the calendar year 1986, the Lessee will furnish to the Lessor, the Vendor and the Owners (a) an accurate statement (i) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably

request, (ii) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the CSA have been preserved or replaced and (iii) setting forth a description of the insurance in effect with respect to the Equipment pursuant to § 7 hereof, (b) a certificate of insurance by or on behalf of the Lessee's insurers stating the amounts of such insurance in effect, the amount of deductible, the named insureds, if required to be named as such under the provisions of § 7 hereof and the limits of each policy and (c) a report of the Lessee's independent insurance broker certifying that the Lessee's insurance coverage complies with the requirements of § 7 hereof. A certificate of insurance referred to in clause (b) of the preceding sentence shall also be furnished to the Lessor, the Owner and the Vendor on or prior to the expiration date of each policy of insurance. The Lessor, at its sole cost and expense, shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease, but the Lessor shall have no obligation to do so. The Lessee shall promptly notify the Lessor and the Vendor of any material changes or any material proposed changes of which the Lessee has knowledge in its insurance coverage in effect with respect to the Equipment pursuant to § 7 hereof.

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

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. NEITHER THE OWNER NOR THE LESSOR MAKES, HAS MADE NOR SHALL BE DEEMED TO MAKE, ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATIONS OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT DELIVERED TO THE LESSEE HEREUNDER, AND NEITHER THE LESSOR NOR THE OWNER MAKES ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS 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, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the

Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Items 3 and 4 of Annex A to the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, subleasing, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Inspection and Acceptance shall be conclusive evidence as between the Lessee and the Lessor (but not as between any party and the Builder) that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Owner based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor, the Owner and the Vendor, at all times to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which operations involving the Units extend, with the interchange rules of the Association of American Railroads (which term shall include any successor organization thereof), if applicable, and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body in the United States, Canada or any other jurisdiction exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called the "Applicable Laws"), and in the event that, prior to the expiration of this Lease or any renewal thereof, any Applicable Law require any alteration,

replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any Applicable Law in any reasonable manner which does not, in the opinion of the Lessor, the Owner or the Vendor, adversely affect the property or rights of the Lessor, the Owner or the Vendor under this Lease or under the CSA. The Lessee, at its own cost and expense, may furnish other additions, modifications and improvements whether or not removable (including, without limitation, any special devices, assemblies or racks at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body in the United States, Canada or any other jurisdiction exercising any power or jurisdiction over such Unit) (collectively "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units in accordance with their original intended purpose, shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease, and shall not render the Units ineligible for interchange service under the rules of the Association of American Railroads. Title to all Parts (as hereinbelow defined) incorporated in or installed as part of the Units shall without further act vest in the Lessor and be subject to a valid first lien and prior perfected security interest under the CSA in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of a Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for, any such original Part; (ii) such Part is required to be incorporated in or installed as part of the Units pursuant to the provisions of the first paragraph of § 7 hereof or the terms of the first sentence of this paragraph; or (iii) such Part cannot be readily removed from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default, shall have occurred and be

continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee and may be removed by the Lessee at any time during the term of this Lease and prior to the renewal thereof and shall be removed prior to the return of the Units to the Lessor pursuant to § 14 hereof; provided, however, that the Lessor shall have the option to purchase for cash any or all such Parts which are owned by the Lessee at the end of the Term and the Lessee agrees to give the Lessor notice at least 180 days prior to the end of the Term of the identity of such Parts. If the Lessor desires to exercise such option, the Lessor shall, not later than the date of the return of the Units pursuant to § 14 hereof, give the Lessee written notice of its election to purchase any such Part or Parts on a date specified in such notice occurring within 10 days after such return. The purchase price of any such Part shall be the Fair Market Value (as defined in § 13 hereof) thereof as of the date of such purchase. If the Lessor elects to purchase any such Part, the Lessee will on or prior to the date of such purchase, upon receipt of the purchase price therefor, (x) furnish the Lessor with a full warranty bill of sale with respect to such Part in form and substance satisfactory of Lessor, conveying to Lessor good title to such part free and clear of all Liens, and (y) furnish the Lessor with such evidence of the title to, and of the condition of, such Part as the Lessor may reasonably request. The term "Part" for the purposes of this paragraph shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit.

Whether or not any of the transactions contemplated hereby are consummated, the Lessee assumes liability for, and shall indemnify, protect, save and keep harmless each Indemnified Person (as defined in § 6 hereof) from and against, any and all liabilities, obligations, damages, penalties, claims, actions, suits, costs and expenses, including legal fees and expenses, of whatsoever kind and nature (herein collectively called "Indemnified Matters") imposed on, incurred by or asserted against any Indemnified Person in any way relating to or arising out of (i) the manufacture, acquisition, construction, installation, purchase, delivery, ownership, lease, sublease, possession, rental, use, condition, operation, transportation, return, sale, replacement, storage or disposition of the Units or any part thereof (including, without limitation, Indemnified Matters in any way relating to or arising out of latent or other defects, whether or not discoverable by the Lessee or any other

person, injury to person or property (except as otherwise provided in § 14 hereof) or the environment, patent, trademark or invention rights, or strict liability in tort), or (ii) this Lease or any of the other Documents or any of the transactions contemplated hereby or thereby, or any other document or instrument hereafter executed and delivered pursuant to the terms hereof or thereof, or the enforcement of any of the terms of this Lease or any of the other Documents, or (iii) the enforcement of any agreement, restriction or legal requirement affecting the Units or any part thereof or the ownership, operation or use of the Units or any part thereof, or (iv) the creation of the CSA Indebtedness and the execution and delivery of certificates of interest therein; provided, however, that the Lessee shall not be required to indemnify any Indemnified Person for (A) Indemnified Matters resulting from the gross negligence or wilful misconduct of such Indemnified Person, or (B) Indemnified Matters in respect to the Units which arise from acts or events that occur after the termination of this Lease and the return of the Units to the Lessor in accordance with § 14 hereof (unless such termination shall have occurred pursuant to § 10 hereof), or (C) Indemnified Matters resulting solely from the breach of any representation, warranty, agreement or covenant made by such Indemnified Person (or, in the case of the Owner, by the Lessor, in its individual or fiduciary capacity) in any of its Documents (as defined in the Participation Agreement), or (D) in the case of the Owner and the Lessor (in its individual and fiduciary capacities) Indemnified Matters not otherwise indemnified by the Lessee caused solely by an act or omission of such person (or, in the case of the Owner, by the Lessor, in its individual or fiduciary capacities) not related to the ownership of the Equipment or to the transactions contemplated by the Documents or the enforcement thereof, or (E) in the case of the Owner and the Lessor (in its individual and fiduciary capacities), so long as no Event of Default shall have occurred and be continuing, Indemnified Matters caused solely by the voluntary transfer by such person of any of its interest, if any, in the Equipment, this Lease or the other Documents or the Trust Estate, or (F) Taxes described in § 6 hereof and the indemnities provided for in the Indemnity Agreement, or (G) costs and expenses referred to in Paragraph 13 of the Participation Agreement to the extent that the Lessee is not required to pay the same pursuant to Paragraph 13 of the Participation Agreement.

The Lessee shall be obligated under this § 9 irrespective of whether the Indemnified Person shall also be indemnified with respect to such Indemnified Matters

elsewhere under this Lease or under any other Document or by any other person, and the Indemnified Person may proceed directly against the Lessee under this § 9 without first resorting to any such other rights of indemnification. With respect to any payment or indemnity hereunder, such payment or indemnity shall include any amount necessary to hold any Indemnified Person receiving such payment or indemnity harmless on a net after-tax basis and taking into account any tax benefit realized by such Indemnified Person as a result of such payment from all taxes required to be paid by such Indemnified Person with respect to such payment or indemnity under the laws of any Federal, state or local government or taxing authority in the United States of America.

Upon the commencement of any proceeding or the receipt by any Indemnified Person of a written claim against an Indemnified Person involving one or more Indemnified Matters, such Indemnified Person shall promptly, upon receiving written notice thereof, give notice thereof to the Lessee. The Lessee shall be entitled (a) in any proceeding that involves solely a claim for one or more Indemnified Matters, to assume responsibility for and control thereof, (b) in any proceeding involving a claim for one or more Indemnified Matters and other claims related or unrelated to the transactions contemplated by the Documents, to assume responsibility for and control of such claim for Indemnified Matters to the extent that the same may be and is severed from such other claims (and such Indemnified Person shall use reasonable efforts at its expense to obtain such severance unless, in the opinion of counsel for such Indemnified Person obtained at its expense, such severance and assumption of responsibility and control by the Lessee has a reasonable possibility of adversely affecting the resolution of such other claims), or (c) in any other case, to be consulted by such Indemnified Person with respect to proceedings subject to the control of such Indemnified Person. Notwithstanding any of the foregoing to the contrary, the Lessee shall not be entitled to assume responsibility for and control of any such judicial proceedings if (1) an Event of Default, or an event which with the giving of notice or the lapse of time or both would constitute an Event of Default, shall have occurred and be continuing, (2) such proceedings will involve any substantial danger of the sale, forfeiture or loss of the Units or any part thereof, (3) such Indemnified Matters relate in any way to the general business of any Indemnified Person other than the ownership and leasing of Units, or (4) the Lessee shall not have furnished the Indemnified Person with an opinion of counsel reasonably satisfactory to such Indemnified Person to the effect that there exists a

meritorious basis for contesting such Indemnified Matters. The Indemnified Person may participate at its own expense in any proceedings controlled by the Lessee pursuant to the preceding provisions.

The Indemnified Person shall supply the Lessee with such information requested by the Lessee as in the reasonable opinion of counsel to such Indemnified Person is necessary or advisable for the Lessee to control or participate in any proceeding to the extent permitted by this § 9. Unless an Event of Default, or an event which with the giving of notice or the lapse of time or both would constitute an Event of Default, has occurred and is continuing, such Indemnified Person shall not enter into a settlement or other compromise with respect to any Indemnified Matter without prior written consent of the Lessee, which consent shall not be unreasonably withheld or delayed, unless such Indemnified Person waives its rights to be indemnified with respect to such Indemnified Matter.

The Lessee further agrees to indemnify, protect and hold harmless each Indemnified Person 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 such Indemnified Party because of the use in or about the construction or operation of any of the Units of any article or material specified by the Lessee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to the Builder and the Owner of any claim known to the Lessee from which liability may be charged against the Builder with respect to the foregoing.

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

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

None of the indemnities in this § 9 shall be deemed to create any rights of subrogation, from or under any Indemnified Party, in any insurer or third party against the Lessee or the Lessor therefor, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Units. The indemnities contained in this § 9 shall survive the expiration or termination of this Lease and the other Documents.

Upon the payment in full of any indemnities as contained in this § 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing (i) the Lessee shall be subrogated to any right of such Indemnified Party (except against another Indemnified Party) in respect of the matter against which indemnity has been given and (ii) any payments received by such Indemnified Party from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Party has been indemnified by the Lessee pursuant to this § 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter.

Each payment made pursuant to this § 9 shall be paid directly to the appropriate Indemnified Party.

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

(A) default shall be made in payment of any amount provided for in § 3(1), § 7 or § 13 hereof, and such default shall continue for seven business days;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof, and the Lessee shall, for more than 30 days after demand in writing by the Lessor, fail to secure a reassignment or retransfer to the Lessee of such lease, interest or right;

(C) default shall be made in the observance or performance of any other of the covenants, conditions

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

(D) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, the Participation Agreement, the Indemnity Agreement and the Consent shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed and otherwise in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, as the same may hereafter be amended; or

(E) any other proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Participation Agreement, the Indemnity Agreement or the Consent, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or thereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, the Participation Agreement, the Indemnity Agreement and the Consent shall not have been and shall not continue to have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or

not subject to ratification) for the Lessee, or for the property of the Lessee, in connection with any such proceedings in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(F) any of the Lessee's representations or warranties made herein, in the Participation Agreement or in the Consent or in any statement or certificate at any time given in writing pursuant hereto or thereto in connection herewith or therewith shall prove to have been incorrect in any material respect as of the date when made;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents, subject to compliance with all mandatory requirements of law, enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any such Units and henceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as liquidated damages for loss of the bargain and not as a penalty whichever of the following amounts the

Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 9% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (B) any damages and expenses, including reasonable attorneys' fees in addition thereto, which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the semiannual rent payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall not have recovered possession of such Unit, the sales value thereof, may, at the option of the Lessor, be deemed to be zero and; provided, further however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clause (y) of this part (B) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the semiannual rent payment date on or next preceding the date of termination, over the net proceeds of such sale. In the event the sales value of a Unit shall be deemed to be zero pursuant to the first proviso to clause (y) of the preceding sentence, and pursuant thereto the Lessee shall have paid to the Lessor, as liquidated damages, the full Casualty Value of such Unit together with all other amounts then due hereunder, the Lessor shall execute and deliver to the Lessee a bill of sale (on an "as is, where is basis" and without recourse, representation or warranty of any kind whatsoever, express or implied) for such Unit such as will transfer to the Lessee such title to such Unit as

the Lessor derived from the Builder, free and clear of all liens, security interests and other encumbrances created by or arising through the Lessor, in its individual or fiduciary capacity, or the Owner, which such party is required to pay or discharge pursuant to Paragraph 18 of the Participation Agreement, in the case of the Owner, and the proviso to the last paragraph of Article 12 of the CSA, in the case of the Lessor (in its individual or fiduciary capacity). In addition, promptly after the Lessee makes the payment of Casualty Value as aforesaid, the Fair Market Value of such Unit (as hereinafter defined) will be determined as of the next preceding semiannual rent payment date. If the Fair Market Value of such Unit as so determined exceeds the Casualty Value of such Unit paid as aforesaid, the Lessee shall, within 30 days after such determination, pay the amount of such excess to the Lessor. If the Lessor and the Lessee are unable to agree upon the Fair Market Value of such Unit, such value shall be determined in accordance with the procedure set forth in Section 13 hereof by a single appraiser appointed at the request of either the Lessor or the Lessee by the American Arbitration Association.

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

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

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

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Except as hereinafter provided, each Unit so delivered shall be in the condition required by the first sentence of § 7 and the last sentence of § 14 hereof. For the purpose of delivering possession, the Lessee shall:

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

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

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

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and, upon application to any court of equity having jurisdiction, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. Except as hereinafter provided, during any storage period, the Lessee will, at its own expense, maintain and keep the Equipment in the condition required by the first sentence of § 7 hereof and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All

rent and per diem charges earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

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

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor to any successor Lessor which may be appointed pursuant to Article VII of the Trust Agreement or to any banking or financial institution which has a combined capital and surplus of at least \$50,000,000 and which does not have an interlocking relationship with the Lessee within the meaning of Section 10 of the Clayton Act. Notwithstanding the foregoing, the Lessee shall be under no obligation to make payments other than as specified herein without written notice of such assignment. All the rights of the Lessor hereunder shall inure to the benefit of the Lessor's successors and assigns.

So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and, without the prior written consent of the Lessor and the Vendor, the Lessee may sublease (which sublease by its terms shall be subject to the rights and remedies of the Lessor and the Vendor hereunder) the Units to, or permit their use by, a user incorporated in the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia), or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains or over which their equipment is regularly operated pursuant to contract, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to

all the terms and conditions of this Lease; provided, however, that the Vendor's and the Lessor's consent, not to be unreasonably withheld, must be obtained for any sublease that, taken together with all renewal terms provided for therein, would be longer than six months during any period of 12 consecutive months; provided further, however, that the Lessee shall not sublease or permit the sublease or use of any Unit to service involving operation or maintenance outside the United States of America except that occasional service in Canada shall be permitted so long as such service in Canada is on a temporary basis which is not expected to exceed a total of 90 days in any taxable year of the Owner, nor shall the Lessee sublease to or permit the sublease or use of any Unit by any person in whose hands such Unit would not qualify as "section 38" property within the meaning of the Code. No such assignment or sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

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

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease as aforesaid and other than an encumbrance created by the Lessor, the Owner or the Vendor which is not contemplated by the Documents or resulting from claims against the Vendor, the Lessor or the Owner not related to the ownership or leasing of, or the security title or security interest of the Vendor to, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Vendor, the Owner or the Lessor therein; except that this covenant will not be breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined

or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent; and, furthermore, the Lessee shall be under no obligation to discharge any such lien, charge, security interest or encumbrance so long as it is contesting the same in good faith and by appropriate legal proceedings and the failure to discharge the same does not, in the opinion of the Lessor and the Vendor, in each case set forth in writing addressed to the Lessee, adversely affect the title, property or rights of the Lessor hereunder or the Vendor under the CSA.

§ 13. Renewal Option; Purchase Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by irrevocable written notice delivered to the Lessor not less than 180 days prior to the end of the original term or the first, second or third extended term of this Lease, elect to extend the term of this Lease in respect of all but not fewer than all the Units then covered hereby, for a period of two years commencing on the scheduled expiration of the original or such extended term of this Lease.

Each extended term of the Lease shall be on the same terms and conditions as are contained in this Lease, except (x) as to the amount of rentals, which shall be at a Fair Market Rental (as hereinafter defined) payable, in arrears, in semiannual payments on the dates on which such rentals were payable for the Units in each year of the original term and (y) that the Casualty Value of each Unit on the first day of such extended term shall be equal to the greater of (a) the Fair Market Value (as hereinafter defined) of such Unit on such date, or (b) the present value as of such date, of all rentals payable during such extended term, discounted at a rate of 9% per annum, compounded semi-annually, from the respective dates upon which such rentals are payable hereunder; and thereafter such Casualty Value shall be reduced on a straight-line basis (computed on the basis of reduction to zero over the estimated remaining useful life of such Unit which shall, if not agreed upon by the Lessor and the Lessee, be determined by appraisal in accordance with the procedure hereinafter set forth) for the remainder of such extended term, all as determined by the procedures hereinafter established.

"Fair Market Rental" shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in

possession) and an informed and willing lessor under no compulsion to lease and, in such determination, (i) it shall be assumed that the Units are in the condition and repair required by § 7 hereof, that they are free and clear of all liens, claims and encumbrances and that each Unit was in compliance with the load-box testing and horsepower rating requirements set forth in the last sentence of § 14, (ii) the value of the additions, modifications and improvements as to which Lessee retains title shall not be included and (iii) costs of removal from the location of current use shall not be a deduction from such value.

If, within 30 days following receipt of the notice required by the first paragraph hereof, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such Fair Market Rental shall be determined in accordance with the foregoing definition by the appraisal procedure described below.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, at the end of the original or any extended term of this Lease the Lessee may by irrevocable written notice delivered to the Lessor not less than 180 days prior to the end of such term of this Lease, elect to purchase all but not fewer than all the Units then covered by this Lease for the then "Fair Market Value" thereof as of the last day of such original or extended term of this Lease.

"Fair Market Value" shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer and an informed and willing seller under no compulsion to sell and, in such determination, (i) it shall be assumed that the Units are in the condition and repair required by § 7 hereof, that they are free and clear of all liens, claims and encumbrances, and that each Unit was in compliance with the load-box testing and horsepower rating requirements set forth in the last sentence of § 14, (ii) the value of the additions, modifications and improvements as to which the Lessee retains title shall not be included and (iii) costs of removal from the location of current use shall not be a deduction from such value.

If, after 30 days from the giving of notice by the Lessee of the Lessee's election to purchase or to extend this Lease or other event giving rise to the requirement to determine Fair Market Value or Fair Market Rental, as the case may be, the Lessor and the Lessee are unable to agree

upon a determination of the Fair Market Value or Fair Market Rental of the Units, as the case may be, such value shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 30 days after such notice is given, appoint a third independent appraiser. If no such third appraiser is appointed within 30 days after such notice is given, either party may apply to the American Arbitration Association to make such appointment, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Value or Fair Market Rental, as appropriate, of the Units within 60 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Value or Fair Market Rental, as appropriate, of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall be final and binding upon the parties hereto as the Fair Market Value or Fair Market Rental, as appropriate. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Value or Fair Market Rental, as appropriate, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

Upon payment of the Fair Market Value of any Unit, pursuant to an exercise by the Lessee of its right to purchase such Units, the Lessor shall execute and deliver to the Lessee, or upon request of the Lessee, to the Lessee's assignee or nominee, a bill of sale (on an "as-is, where-is basis" and without recourse, representation or warranty of

any kind) for such Units such as will transfer to the Lessee such title to such Units as the Lessor derived from the Builder free and clear of all liens, security interests and other encumbrances created by or arising through the Lessor in its individual capacity or as Owner-Trustee or the Owner, which such party is required to pay or discharge pursuant to Paragraph 18 of the Participation Agreement, in the case of the Owner, and the proviso to the last paragraph of Article 12 of the CSA, in the case of the Lessor (in its individual capacity).

§ 14. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, other than pursuant to § 10 or in connection with the purchase of the Units by the Lessee pursuant to § 13 hereof, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit if not purchased by the Lessee, to the Lessor upon such storage tracks of the Lessee as the Lessee may reasonably designate in such city on the lines of the Lessee as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may reasonably select, and permit the Lessor to store such Unit on such tracks for a period not exceeding 120 days following notification to the Lessor by the Lessee that 90% of the Units have been assembled and delivered for storage (or, with respect to any Unit not delivered at the time of such notification, 60 days following notification from the Lessee to the Lessor that such Unit has been delivered for storage) and transport the same, at any time within such 120-day period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as mutually agreed upon by the Lessor and the Lessee, the movement and storage of such Units to be at the expense and risk of the Lessee (which shall during such period maintain the insurance required by § 7 hereof); and in the event that any Unit shall suffer a Casualty Occurrence during such storage period, the Lessee shall pay the Lessor the Casualty Value thereof as provided in § 7 hereof. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, on behalf of either the Lessor or any prospective purchaser, lessee or user, such rights of inspection. Each Unit returned to the Lessor pursuant to this § 14 shall (except

for additions, modifications and improvements which the Lessee is entitled to remove and does remove pursuant to § 9 hereof) be in the condition required by the first sentence of § 7 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own expense, maintain and keep the Units (except for additions, modifications and improvements which the Lessee is entitled to remove and does remove pursuant to § 9 hereof) in the condition required by the first sentence of § 7 hereof. Anything to the contrary contained in this § 14 notwithstanding, however, the Lessee shall have no obligation under clause (b) or clause (c) of the first sentence of § 7 hereof after the later of (i) the termination of the security interest of the Vendor under the CSA and (ii) the date of expiration of the term of this Lease. At the request of the Lessor, the Lessee will continue to store any Unit for an additional period of 90 days beyond the storage period determined pursuant to this § 14; provided, however, that such storage shall be at the risk and expense of the Lessor and for a reasonable storage charge to be mutually agreed upon by the Lessee and the Lessor. All rent and per diem charges earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. At the time the Lessee is required to deliver possession of any Unit to the Lessor pursuant to this § 14 or § 11 hereof, or within 30 days prior thereto, the Lessee will provide to Lessor a certificate stating that: (i) such Unit has been load-box tested by a qualified inspector not more than twelve months prior to the date of expiration of the term of this Lease and (ii) such Unit achieved a horsepower rating equal to or greater than 97% of the original design rating. In the event any Unit shall not meet the requirements of clauses (i) and (ii) above of the preceding sentence prior to time such Unit is required to be returned to the Lessor as aforesaid, the Lessee, at its sole expense, will take whatever necessary corrective action may be required so that such Unit complies fully with the requirements of clauses (i) and (ii) of the preceding sentence at the time of such required return.

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

such deposit to be given forthwith in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective rights and interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA and the assignments hereof and thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing, recording and other acts which may be required under this § 15, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the CSA, and the assignments thereof, shall be filed with the Interstate Commerce Commission and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision shall be made for publication of notice of such deposit in The Canada Gazette prior to the delivery and acceptance hereunder of any Unit.

§ 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount on the overdue rentals and other obligations for the period of time during which they are overdue at a rate of 12-1/2% per annum, or, if such rate is not legally enforceable, then at the highest legally enforceable rate.

§ 17. Notices. Any notice required or permitted hereunder shall be deemed to have been received by the addressee on the date of actual receipt (if such date is a business day, otherwise on the next business day), if transmitted by mail, telex, telecopy or similar transmission, or delivered by hand, addressed as follows:

(a) if to the Lessor, at 35 North Sixth Street, Reading, Pennsylvania 19603, Attention of Mrs. Doris Krick, Assistant Vice President with a copy to the Owner at its address set forth in Schedule A to the Participation Agreement; and

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

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

§ 18. Severability; Effect and Modification of Lease; Third-Party Beneficiaries. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

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

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

§ 19. Immunities. Anything herein to the contrary notwithstanding, each and all of the representations, warranties, undertakings and agreements herein made on the part of the financial institution acting as the Lessor are made and intended not as personal representations, warranties, undertakings and agreements by said financial institution for the purpose or with the intention of binding it personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said financial institution not in its own right but solely in the exercise

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

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

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

§ 22. Lessor's Right To Perform. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may (but shall have no obligation to do so) upon notice to the Lessee, and without releasing the Lessee from any of its obligations hereunder, perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor (including reasonable counsel fees, if any) incurred in connection with such performance or compliance, together with interest on such amount at 12-1/2% per annum, shall be payable by the Lessee upon demand. No such performance or compliance by the





SCHEDULE A  
TO  
LEASE

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Road Numbers (Both Inclusive)*	Unit Base Price**	Total Base Price**	Estimated Time and Place of Delivery
Model SD-50 3,600 h.p. diesel electric locomotive	8115, Amendment 8115-3A and opening specifica- tion No. 847049 dated May 20, 1985	McCook, Illinois	8	CNW 7000 through CNW 7034	\$1,265,920*	\$10,127,360*	November- December, 1985, at Lessee's Proviso Yard at Melrose Park, Illinois

Automatic Train control to be supplied by Lessee	-	-	8	-	25,000	200,000	
					<u>\$1,290,920</u>	<u>\$10,327,360</u>	

\*The road numbers listed are for all Units to be delivered under this Lease and the two other leases dated as of the date hereof to which the Lessee and Meridian Trust Company, in a trust capacity, are parties. After all the Units have been delivered and accepted hereunder, an appropriate amendment to this Schedule A will be filed with the Interstate Commerce Commission to reflect the road numbers of the Units actually delivered and accepted hereunder.

\*\*Including prepaid freight charges estimated to be \$920 per Unit to Melrose Park, Illinois. Such Base Price will be subject to reduction by an amount not to exceed \$116,000 per Unit for deliveries after 12/31/85 pursuant to the terms of the Purchase Order.

SCHEDULE B

Rental Payments

<u>Date</u>	<u>Percentage of Purchase Price*</u>
8/1/86	3.338475%
2/1/87	5.132639
8/1/87	3.235311
2/1/88	5.235804
8/1/88	3.120282
2/1/89	5.350832
8/1/89	2.992026
2/1/90	5.479089
8/1/90	2.849020
2/1/91	5.622094
8/1/91	2.712710
2/1/92	5.758404
8/1/92	2.617410
2/1/93	7.735912
8/1/93	2.451698
2/1/94	7.901624
8/1/94	3.770163
2/1/95	6.583159
8/1/95	3.646937
2/1/96	6.706385
8/1/96	7.128853
2/1/97	3.224469
8/1/97	8.955408
2/1/98	1.397914
8/1/98	9.413364
2/1/99	0.939958
8/1/99	9.930309
2/1/00	0.423013
8/1/00	10.353322
2/1/01	0.000100

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\* As defined in Article 4 of the CSA.

SCHEDULE C

Casualty Value Percentage Schedule

Table 1

<u>Date</u>	<u>Percentage of Purchase Price*</u>
2/1/86	87.995230
8/1/86	87.426476
2/1/87	88.239508
8/1/87	89.720270
2/1/88	89.795226
8/1/88	90.737611
2/1/89	90.025210
8/1/89	90.391039
2/1/90	88.825481
8/1/90	88.825483
2/1/91	86.911703
8/1/91	86.943107
2/1/92	83.965333
8/1/92	84.015911
2/1/93	79.006811
8/1/93	79.064117
2/1/94	73.738141
8/1/94	72.301725
2/1/95	68.044474
8/1/95	66.558029
2/1/96	62.002621
8/1/96	56.852040
2/1/97	55.400559
8/1/97	48.231830
2/1/98	48.322204
8/1/98	40.543349
2/1/99	40.926854
8/1/99	32.493886
2/1/00	33.232467
8/1/00	24.214249
2/1/01 and thereafter	25.000000

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\* As defined in Article 4 of the CSA. If the Casualty Occurrence occurs on or before the fifth anniversary of the date of the acceptance of the Unit hereunder, add the appropriate percentage shown in Table 2.

Table 2

The percentages set forth in Table 1 of this Schedule C have been computed without regard to recapture of the Investment Tax Credit. Consequently, the percentages set forth in said Table 1 for any Unit suffering a Casualty Occurrence on or before the fifth anniversary of its date of acceptance hereunder shall be increased by the applicable percentage of the Purchase Price set forth below (such amount to be determined as of the actual date of such Casualty Occurrence):

<u>Anniversary</u>	<u>Percentage of Purchase Price</u>
First	18.51851%
Second	14.814814
Third	11.111111
Fourth	7.407407
Fifth	3.703703

SCHEDULE D

Termination Value Percentage Schedule

<u>Date</u>	<u>Percentage of Purchase Price*</u>
8/1/91	86.943107
2/1/92	83.965333
8/1/92	84.015911
2/1/93	79.006811
8/1/93	79.064117
2/1/94	73.738141
8/1/94	72.301725
2/1/95	68.044474
8/1/95	66.558029
2/1/96	62.002621
8/1/96	56.852040
2/1/97	55.400559
8/1/97	48.231830
2/1/98	48.322204
8/1/98	40.543349
2/1/99	40.926854
8/1/99	32.493886
2/1/00	33.232467
8/1/00	24.214249
2/1/01 and thereafter	25.000000

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\* As defined in Article 4 of the CSA.

SCHEDULE E

Certificate of Inspection and Acceptance

To: Meridian Trust Company, acting as Trustee (the  
"Lessor") under Trust Agreement No. 1  
35 North Sixth Street  
Reading, Pennsylvania 19603

I, the duly authorized representative for the Lessor and Chicago and North Western Transportation Company (the "Lessee") under the Conditional Sale Agreement No. 1 and the Lease of Railroad Equipment No. 1, both dated as of September 1, 1985, do hereby certify that the following Units of Equipment have been inspected and I have accepted delivery of such Units thereunder:

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

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

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

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

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

\_\_\_\_\_  
Authorized Representative of  
Lessor and Lessee

BUILDER:

General Motors Corporation  
(Electro-Motive Division)

SCHEDULE F

Assumptions

- (1) The Units (including ATCs installed thereon and settled for under the Participation Agreement) will be settled for on the dates and in the amounts set forth below:

<u>Date</u>	<u>Amount</u>
December 10, 1985	15/35th of the aggregate Purchase Price of the Units
December 30, 1985	20/35th of the aggregate Purchase Price of the Units

- (2) The costs and expenses payable by the Owner pursuant to Paragraph 13 (a) of the Participation Agreement will equal .492% of the aggregate Purchase Price of the Units.
- (3) The income paid or credited to the Vendee on the Investments (as defined in Paragraph 2 of the Participation Agreement) pursuant to the Participation Agreement will be paid on February 1, 1986, and will be in an amount equal to 0.908% of the aggregate Purchase Price of the Units.
- (4) The amount payable by the Vendee on February 1, 1986, pursuant to the fourth paragraph of Article 4 of the CSA in respect of interest on the CSA Indebtedness will be equal to 2.22565% of the aggregate Purchase Price of the units.