

34

THACHER, PROFFITT & WOOD

40 WALL STREET
NEW YORK, N. Y. 10005

TELEPHONE (212) 483-5800

JOHN W. WHEELER
EDWARD C. KALAJDJIAN
KURT W. LORE
JOHN B. MCCUBBIN
STEPHEN B. WILSON
CORNELIUS S. VAN REES
PHILLIP C. BROUGHTON
ROBERT S. STITT
DWIGHT B. DEMERITT, JR.
O. GERARD GJERTSEN
RICHARD A. IKLE
ALBERT J. CARDINALI
LAWRENCE W. GOLDE
OMER S. J. WILLIAMS
STUART H. PRINGLE, JR.
CHARLES D. BROWN
JANET M. WHITAKER
DANIEL E. KIRSCH
RAYMOND S. JACKSON, JR.
THOMAS N. TALLEY
FRANCIS X. SULGER
STEPHEN T. WHELAN
DANIEL J. DRISCOLL III

J. FRANK WOOD
CHARLES W. LEWIS
EARL L. MARSHALL
JOHN D. BEALS, JR.
COUNSEL

CABLE "WALLACES NEW YORK"
ITT TELEX 422532
TWX 710 581 2634
TELECOPIERS (212) 483-5853
(212) 483-5854

9498-Q

RECORDATION
APR 3 - 1981
INTERSTATE COMMERCE COMMISSION

April 3
March , 1981

1-033A166

Ms. Agatha L. Mergenovich
Secretary of the Interstate
Commerce Commission
12th Street and Constitution Avenue, N.W.
Washington, D.C.

REC'D
APR 3 1981
Date
Fee \$ 150.00
2.4
ICC Washington, D. C.

RECEIVED
APR 3 2 35 PM '81
I.C.C.
FEE OPERATION BR.

Mrs Lee - this is under
9498

Re: Documents recorded under Recordation
No. 9498 originally Filed and Recorded
on June 30, 1978

Dear Madam:

PLEASE CROSS INDEX THIS FILING
UNDER GRAND TRUNK WESTERN
RAILROAD COMPANY

* a filing fee of \$10.00 is enclosed.

I enclose for filing with the Interstate Commerce
Commission pursuant to 49 U.S.C. §11303, the following documents:

- 9498-L 1. Sublease of Railroad Equipment dated as of May 1, 1978, together with Certificate of Acceptance dated March 5, 1981.
Sublessee: Grand Trunk Western Railroad Company
Sublessor: Great American Management Services, Inc.
- 9498-M 2. Amendment No. 1 to Sublease of Railroad Equipment dated as of May 1, 1978
Sublessee: Grand Trunk Western Railroad Company
Sublessor: Great American Management Services Inc.
- 9498-N 3. Assignment of Sublease and Agreement dated as of May 1, 1978
Assignee: First Security State Bank, as Owner
Trustee
Assignor: Great American Management Services, Inc.

9498-O
9498-P
9498-Q
9498-R
9498-S

next page *Counters Bal Ala*

- 9498-C 4. Assignment of Leases, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of May 1, 1978
Assignee: First Security Bank of Utah, N.A.,
as Agent
Assignor: First Security State Bank, as Owner-Trustee
- 9498-P 5. Amendment to Lease of Railroad Equipment dated as of May 1, 1978 (see Document No. 9498-C Filed and Recorded on June 30, 1978 - 4:05 P.M.)
Lessee: Great American Management Services, Inc.
Lessor: First Security State Bank, as Owner-Trustee
- 9498-G 6. Lease of Railroad Equipment dated as of May 1, 1978
Lessee: Grand Trunk Western Railroad Company
Lessor: First Security State Bank, Owner-Trustee
- 9498-R 7. Amendment No. 1 to Lease of Railroad Equipment dated as of May 1, 1978
Lessee: Grand Trunk Western Railroad Company
Lessor: First Security State Bank, Owner-Trustee
- 9498-S 8. Amendment dated as of April 1, 1980 to Conditional Sale Agreement dated as of May 1, 1978 (see Document No. 9498A Filed and Recorded on June 30, 1978 - 4:05 P.M.)
Owner-Trustee: First Security State Bank
Builder: Portec, Inc. (Paragon Division)

The documents listed above cover the railroad equipment (the "Equipment") described in Exhibit A to the Sublease ("229 Flatcars") and Exhibit A to the Lease ("229 Autoracks"). The 229 Flatcars are being leased by the Lessee from the Owner-Trustee pursuant to a Lease of Railroad Equipment dated as of May 1, 1978 and are being subleased by the Lessee as sublessor to the Sublessee pursuant to the Sublease referred to in item 1 above. The 229 Autoracks are being leased by the Owner-Trustee to the Sublessee pursuant to the Lease described in item 6 above. The rights of the Lessee under the Sublease are being assigned to the Owner-Trustee and in turn are being reassigned to the Agent and the rights of the Owner-Trustee in the Lease are being assigned to the Agent.

Ms. Agatha L. Mergenovich

3:

In addition, I enclose a check in the amount of \$150.00 to cover the cost of recordation with the Secretary's Office.

Please return the stamped copies of the above documents to the bearer of this letter.

Very truly yours,

Thacher, Proffitt + Wood

THACHER, PROFFITT & WOOD,
as Agent for Great American
Management Services, Inc.

9498-9

RECORDATION NO. 9498-9 Filed 1428

APR 3 1981 -2 45 PM

INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

Dated as of May 1, 1978

between

GRAND TRUNK WESTERN RAILROAD COMPANY,
as Lessee

and

FIRST SECURITY STATE BANK,
not in its individual capacity but solely
as Owner-Trustee for Merrill Lynch Leasing, Inc.,
as Lessor

[Covering 147 Bi-Level Autoracks and
82 Tri-Level Autoracks]

LEASE OF RAILROAD EQUIPMENT dated as of May 1, 1978, between GRAND TRUNK WESTERN RAILROAD COMPANY (hereinafter called the "Lessee") and FIRST SECURITY STATE BANK, a Utah corporation (the "Lessor") acting not in its individual capacity but solely as Trustee under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with MERRILL LYNCH LEASING, INC. (the "Owner").

The Lessor has entered into a conditional sale agreement (the "Security Document") with PORTEC, INC. (Paragon Division) (the "Builder"), pursuant to which the Lessor has purchased the railroad equipment described in Schedule A hereto (the "Equipment").

The Builder assigned its interest in the Security Document pursuant to an Agreement and Assignment, dated as of May 1, 1978 (the "Assignment"), to First Security Bank of Utah, N.A., acting as Agent (together with its successors and assigns called the "Vendor") under a Participation Agreement dated as of May 1, 1978 (the "Participation Agreement") with the Lessor, William M. Gibbons, Trustee of the property of Chicago, Rock Island and Pacific Railroad Company (the "Rock Island"), the Builder, Great American Management Services, Inc. ("GAMS"), the Owner and the party or parties named in Schedule A thereto (the "Investors").

The Lessor entered into a Lease of Railroad Equipment dated as of May 1, 1978 (the "Rock Island Lease") with the Rock Island, as lessee with respect to the Equipment and the Lessor has entered into a Termination Agreement dated as of March 21, 1980, (the "Termination Agreement") with respect to the Rock Island Lease, each item of Equipment which was subject to the Rock Island Lease is hereinafter called an "Item" and each Item that is delivered to the Lessee under this Lease is hereinafter called a "Unit."

To assure payment of certain of the Lessee's obligations under this Lease, a Surety Bond as amended (hereinafter called the Bond), issued by the Great American Insurance Company, as surety (hereinafter called the Surety), and a form of Assumption and Assignment Agreement (hereinafter called the Assumption Agreement) to be entered into between the Surety (or its substitute permitted under the Bond) and the Lessor, if the Surety so elects, being attached as an exhibit thereto, substantially in the forms thereof approved by the Investors, the Vendor and the Lessor prior to the execution of this Lease has been delivered naming the Lessee as principal and the Lessor as obligee.

The Lessor intends to assign certain of its rights under this Lease (the "Lease") and the Bond, as security to the

Vendor pursuant to an Assignment of Leases, Reassignment of Sublease, Assignment of Surety Bonds and Agreement, dated as of the date hereof (the "Lease Assignment"), and the Lessee and the Surety will consent to the Lease Assignment pursuant to a Consent and Agreement attached thereto (hereinafter collectively called the "Consents").

The Lessee as sublessee has entered into a Sublease of Railroad Equipment with GAMS as sublessor dated the date hereof (the "Flat Car Lease") pursuant to which the Lessee will lease certain flat cars (the "Flatcars") to which the Units are attached.

NOW, THEREFORE, in consideration 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:

SECTION 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein provided, the Lessee shall not be entitled to any abatement of rent or any other amounts due hereunder, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor or the Owner, whether under this Lease, under the Security Document or otherwise, including the Lessee's rights by subrogation hereunder or thereunder against the Builder or the Lessor or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization on the part of the Lessee or approval on the part of the Lessee of this Lease, any present or future insolvency of or bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts shall 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 this Lease or 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, the Owner or the Vendor for any reason whatsoever.

SECTION 2. Delivery and Acceptance of Units. The Lessee recognizes that the Rock Island Lease has been terminated, but that the Lessor has not, on the date of execution of this Lease, repossessed all the Items from the Rock Island. The Lessee agrees to do everything reasonably possible (including, without limitation, routing, billing, transfer of equipment from other rail lines, notification of other users of the Items, and the like) to assist the Lessor in obtaining such repossession. The Lessee further agrees to take all action necessary to effect with the Association of American Railroads a change in registration of the road numbers of all the Units which were, at the time of termination thereof, subject to the Rock Island Lease, from the name of Rock Island to the name of the Lessee, and to give notice to the Lessor and the Vendor of all changes in such road numbers to the extent necessary. In addition, Lessee shall execute any financing statements or other documents necessary to perfect and protect the rights of the Lessor and the Agent in the Units and agrees to record the same. After delivery of each Item to an interchange point on the rail lines of the Lessee, the Lessee will cause an employee or agent of the Lessee to inspect the same, and when such Unit is in operable condition (as hereinafter defined), to execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such delivery and will be marked in accordance with Section 5 hereof; such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject to all the terms and conditions of this Lease as of the date of such delivery. As used herein, "operable condition" shall mean in a condition of repair sufficient to enable the Unit to be used in interchange service to haul freight and meeting the standards of the Association of American Railroads ("AAR"), the Federal Railroad Administration and all other applicable rules and regulations for such service. Each Unit shall be delivered attached to a Flat Car. The Lessee agrees with the Lessor that it will not cause or permit any Unit to be detached from the Flat Car to which it was originally attached unless it has previously notified the Lessor and the Vendor of its proposed action and has taken all action required (or requested by the Lessor or Vendor) pursuant to Section 15 hereof necessary for protection of the Vendor's security interest in such Unit.

If a Unit is not considered to be in an "operable condition", the Lessee, except as hereinafter provided, will perform the work necessary to restore such Unit to an "operable condition". The Lessee will promptly notify the Lessor or GAMS of any Unit, together with the Flat Car to which such Unit is attached, needing non-normal damage repairs that are estimated by the Lessee to cost in excess of \$250. The Lessee will notify Lessor or GAMS of the work to be done, estimated time to complete

such work and the estimated cost of such repair. The Lessor or GAMS shall have the right but not the duty, at its expense, (i) to cause such Unit to be repaired by the Lessee or (ii) to exclude such Unit from this Lease and in such event to direct the Lessee to cause the Unit to be delivered to wherever the Lessor shall direct, or otherwise dispose of it, all at the Lessor's expense.

The Lessee will document all repair work and photograph all non-normal damage and the Lessee shall assist the Lessor in asserting claims against the Rock Island or any other responsible entity for the cost of such repair. The Lessee agrees to pursue all claims against delivering railroads and others for all required repairs chargeable against them under the AAR Rules. Any Unit delivered to the Lessee which has been determined by either the Lessee or the Lessor to have suffered a Casualty Occurrence (as the term is hereinafter defined) shall be excluded from this Lease.

The Lessee shall, at the expense of the Lessor, cooperate with the Lessor in conducting joint inspection or similar procedures with respect to a Unit at the reasonable request of the Lessor.

The costs of all repairs for which the Lessee does not receive payment from another source within 90 days will be borne by the Lessor.

The Certificate of Acceptance for each Unit shall indicate both the date such Unit was first delivered to an interchange point of the Lessee and the Rent Date determined as provided below.

SECTION 3. Rentals. The date on which rent shall commence for each Unit which is accepted pursuant to this Lease (the "Rent Date") shall be defined as follows:

- (A) For any Unit, together with its respective Flat Car, not requiring safety repairs, running repairs or non-normal damage repairs, three (3) days following arrival of the Unit at an interchange point of the Lessee.
- (B) For any Unit, together with its respective Flat Car, requiring safety repairs or running repairs, or non-normal damage repairs costing \$250 or less, the earlier of (i) the date of completion of all such repairs and identification painting or (ii) seven (7) days following arrival of the Unit at an interchange point of the Lessee.
- (C) For any Unit, together with its respective Flat Car, requiring non-normal damage repairs exceeding \$250 in cost, the earlier of (i) the date such

repairs are completed or (ii) the date estimated by the Lessee for completion of such repairs, to be computed by adding to the date on which the Lessee receives notice from the Lessor to proceed with the work the number of days estimated for completion of the repairs by the Lessee in its notice of such damage to the Lessor.

The Lessee will pay basic rentals to the Lessor in arrears on January 12, April 12, July 12 and October 12 (the "quarterly rental payment dates") in each year commencing July 12, 1980. Basic rentals for each Unit shall include (i) interim rental of \$7.53 per day times the number of days from the Rent Date for such Unit to the next succeeding quarterly rental payment date and (ii) after the expiration of the interim term or terms quarterly rental payments of \$687.11. With respect to the basic rentals due July 12, 1980 and October 12, 1980, the Lessee will be given credit for any amounts paid by the Lessee to the Lessor prior to the execution of this Lease. Basic rentals after the expiration of the interim term with respect to a Unit shall be payable as provided in Section 4. Interim Rent may be increased as provided in Section 25.

If any of the quarterly rental payment dates referred to above is not a Business Day (as such term is defined in the Security Document) the quarterly rental payment or interim rental payment otherwise payable on such date shall then be payable on the next succeeding Business Day, and no interest shall be payable for the period from and after the nominal date for payment thereof to such next succeeding Business Day.

The Lessor irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments (other than payments under Section 6 and Section 21 hereof) due the Lessor under the provisions of this Lease including, but not limited to, all payments provided for in this Section 3 and in Section 7 hereof, (i) for so long as the Security Document shall remain in effect, to the Vendor, for the account of the Lessor, in immediately available funds at or prior to 11:00 A.M. (Salt Lake City time) to the office of the Vendor (at 79 South Main Street, Suite 310, Salt Lake City, Utah 84111, Attention of Trust Officer, Corporate Trust Division) on the date due, with instructions to the Vendor to apply such payments in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement, and (ii) after the Lessee shall have received notice from the Investors that the Security Document is no longer in effect, to the Lessor or as directed by the Lessor in immediately available funds at such place as the Lessor shall specify in writing.

SECTION 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery of such Unit to an Interchange point of the Lessee and, subject to the provisions of Sections 2, 7, 10, 13 and 25 hereof, shall terminate on January

12, 1995 (the "Termination Date"). Such Term with respect to each Unit delivered to the Lessee prior to May 31, 1980 shall be divided into (i) an initial interim term which shall begin on the date of delivery of each Unit and end on May 30, 1980; (ii) a second interim term which shall begin on May 31, 1980 and shall end on July 12, 1980 and (iii) a permanent term which will begin on July 13, 1980. Such Term, with respect to each Unit delivered on or after May 31, 1980, shall be divided into (a) an interim term which shall begin on the date of delivery of each Unit, and end on the next succeeding quarterly rental payment date after said delivery, and (b) a permanent term which shall begin on the date the interim term ends. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 6, 7, 9, 11, 14, 19, 21 and 25 hereof) shall survive the expiration of the term of 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 Security Document. If an event of default should occur under the Security Document, the Vendor may terminate this Lease (or rescind its termination), all as provided therein, provided that if such event of default shall have been the result of an act or omission of the Lessor such termination shall be without prejudice to any claim of the Lessee against the Lessor with respect thereto; provided, however, such claims, if any, of the Lessee against the Lessor shall not in any way affect the Lessee's obligations under Sections 1, 3 and 25 hereof.

SECTION 5. Identification Marks. Subject to the second paragraph of this Section 5, the Lessee shall cause each Unit delivered to and accepted by the Lessee, as hereinabove provided, to be repainted and restenciled to the extent necessary to show the interest of the Lessee therein, including, without limitation, numbering each Unit with an identifying number set forth in Schedule A hereto, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each such Unit, in letters not less than one inch in height, the words, "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Lessor's title to and the Vendor's security interest in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Document. The Lessee will not place or permit any such Unit to be placed in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. Except for the restenciling contemplated in this

Lease upon delivery and acceptance of each Unit, the Lessee will not change or permit to be changed the identifying 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, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document (or notice thereof) shall have been filed, recorded 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, recorded and deposited, such filing, recording and deposit will protect the Vendor's and the Lessor's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

So long as a Unit remains attached to the Flat Car to which it was attached when initially delivered under Section 2 hereof, the Lessee shall be deemed to comply with the first paragraph of this Section 5 with respect to such Unit if it complies with such paragraph with respect to the Flat Car to which such Unit is attached as if such Flat Car was a Unit referred to therein.

Except as above provided, 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 Lessee may permit the Units to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Units under this Lease, and the Units may be lettered in an appropriate manner for convenience of identification of the interest of the Lessee therein.

SECTION 6. Taxes. For conditions and events occurring from and after the commencement of the term of this Lease as to each Unit, the Lessee agrees to pay or cause to be paid, and on written demand to indemnify and hold the Lessor, the Owner, the Builder, the Vendor, the Investors and the estate held by the Lessor under the Trust Agreement and by the Vendor under the Security Document and the Participation Agreement harmless from all taxes (income, gross receipts, sales, use, property [real or personal, tangible or intangible], stamp taxes), assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Lessor, the Owner, the Vendor, the Builder (other than any such amounts which are the responsibility of the Builder under Article 6 of the Security Document), the Investors, the Lessee, the trust estate created by the Trust Agreement, the estate held by the Vendor under the Security Document and the Participation Agreement, or otherwise

by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: (i) any Unit or any part thereof; (ii) the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; (iii) the rentals, receipts or earnings arising therefrom; (iv) this Lease, the Lease Assignment and the Lessee's Consent; and (v) to the extent arising from or attributable to this Lease, the Lease Assignment, or any Unit, the Consents, the Trust Agreement, the Participation Agreement (including the certificates of interest and the issuance thereof to the Investors pursuant thereto), the Security Document, the Assumption Agreement (as so defined) or the Assignment, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held by the Lessor under the Trust Agreement or by the Vendor under the Security Document and the Participation Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or local government or governmental subdivision thereof and (if and to the extent that any person indemnified hereunder is currently allowed a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Lessor (in its individual capacity), the Owner, the Investors, the Builder or the Vendor (in its individual capacity), other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease (to the extent not excluded by this Section 6), provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or jurisdiction on its worldwide income without regard to the transactions contemplated by this Lease shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by or on behalf of the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease, without the consent of the Lessee, unless, in each case, such transfer or disposition is in connection with a Casualty Occurrence (to the extent not covered by the payment of the Casualty Value) or an Event of Default shall have occurred and be continuing; (iii) any Taxes imposed on or measured by any trustee or agency fees received by the Lessor or the Vendor; (iv) Taxes which are imposed on or measured solely by the net income of the Lessor or the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Lessee has not agreed to pay or indemnify against pursuant to this Section 6; (v) franchise Taxes, Taxes based on the net income and/or capital structure of the Lessor, the Owner, the Agent, the Builder, the estate held by the Lessor and/or the Investors and other

similar "doing business" Taxes; (vi) minimum Taxes imposed under Section 56 of the Internal Revenue Code of 1954, as amended; and (vii) sales, purchase and transfer of title Taxes imposed upon the purchase of the Equipment; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the fourth paragraph of this Section 6. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee (or the affiliated group, within the meaning of Section 1504 of the Internal Revenue Code of 1954, as amended, of which the Lessee is a member) under the laws of the United States or of any state or local government or governmental subdivision thereof, or of any foreign country or subdivision or authority thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

The amount which the Lessee shall be required to pay with respect to any Taxes indemnified against pursuant to this Section 6, shall be an amount sufficient to restore the indemnified party to the same after-tax position such indemnified party would have been in had such Taxes not been imposed.

In the event that the Lessor shall become obligated to make any payment to the Builder, the Investors or the Vendor pursuant to Article 6 of the Security Document, or the Lessor shall become obligated to make the payment to the Vendor, the Builder, the Investors, or the estate held by the Lessor under the Trust Agreement and by the Vendor under the Participation Agreement and the Security Document not covered by the first paragraph of this Section 6 and in each such case if such payment is required to be made as a result of a condition or event occurring from and after the commencement of the term of this Lease and relating to a Unit, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor or the Owner as will enable the Owner or the Lessor to fulfill completely its obligations pursuant to said provision. The Lessor agrees not to enter into any amendment of the Security Document or the Trust Agreement which would adversely affect the interest of the Lessee under this Lease without the written consent of the Lessee.

If claim is made against any indemnified party for any Taxes indemnified against under this Section 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such indemnified party shall, upon receipt of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and

proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such indemnified party; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such indemnified party in any such proceeding or action) without the prior written consent of such indemnified party, which consent shall not be unreasonably withheld. If such indemnified party shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such indemnified party shall pay to the Lessee the amount of such refund or interest net of expenses, and shall also pay to the Lessee any additional amount paid by the Lessee pursuant to the second paragraph of this Section 6 (as to the latter payment, however, only to the extent that the indemnified party is restored to the same after-tax position it would have been in had such refund not been received), but only 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.

In case any report or return is required to be made with respect to any obligation of the Lessee under this Section 6 or arising out of this Section 6, the Lessee shall either make such report or return in such manner as will show the interests of the Vendor and the Lessor in the Units, or shall promptly notify the Lessor, the Owner and the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Lessor, the Vendor and the Owner. All costs and expenses (including reasonable legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

All the obligations of the Lessee under this Section 6 shall survive and continue, notwithstanding payment in full of all amounts due under the Security Document or the termination of this Lease, but only with respect to periods included in the term of this Lease. Payments due from the Lessee under this Section 6 shall be payable directly to the indemnified party, except to the extent paid to a governmental agency or taxing authority. 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 Security Document, or a guarantee of the value of the Units following the expiration of the term hereof as such term may or may not be renewed.

The Lessee shall furnish promptly, upon request, such information and data as are normally available to the Lessee and which the Lessor, the Vendor or the Owner reasonably may require

to permit compliance with the requirements of any taxing authorities.

SECTION 7. Payment for Casualty Occurrences; Insurance.
 In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except (i) prior to obtaining a final and non-appealable order in the reorganization proceedings of the Rock Island, a court or other governmental order requiring a return of such Unit to the Rock Island or any third party, or (ii) requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), during the term of this Lease, or until such Unit shall have been returned in the manner provided in Sections 11 or 14 hereof, the Lessee shall promptly and fully notify (after the Lessee has knowledge of such Casualty Occurrence) the Lessor and the Vendor with respect thereto. On the next quarterly rental payment date (not earlier than the first regular quarterly rental payment date, or, in the event the term of this Lease has already expired or will expire within the 15 days after delivery of such notice, on a date within 15 days of such delivery), the Lessee shall pay or cause to be paid to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value of such Unit as of such rental payment date (such rental payment date being hereinafter called the Casualty Payment Date). Upon the making of such payment by or on behalf of the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit.

If the date upon which the making of such payment by the Lessee in respect of any Unit as required as aforesaid shall be after the term of this Lease in respect of such Unit shall have expired, no rental for such Unit shall accrue after the end of such term but the Lessee, in addition to paying the Casualty Value for such Unit, shall pay or cause to be paid interest thereon from the end of such term to the date of such payment at the Prime Rate of Interest (as hereinafter defined).

The Lessor hereby constitutes the Lessee as its agent to, and Lessee shall dispose of any such Unit suffering a Casualty Occurrence at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor and no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the

extent they do not exceed the Casualty Value of such Unit, and the Lessor shall pay such proceeds to the Lessee, and the excess shall be retained by the Lessor. If such an Event of Default or event has occurred and is continuing, the Lessor shall retain the proceeds of such sale for application in accordance with Section 10 hereof.

The Casualty Value of each Unit as of the Casualty Payment Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Item I of Schedule B hereto opposite such date. The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in Section 21 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of the original delivery and acceptance of said Unit by the Rock Island shall be increased by the the original applicable percentage of the Purchase Price set forth in Item II of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein.

In the event of the requisition for use of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Section 11 or 14 hereof, as the case may be, promptly upon such return rather than at the end of the term of this Lease; but the Lessee shall in all other respects comply with the provisions of said Section 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided 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; and all payments received by the Lessor or the Lessee from the requisitioning authority for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Lessor.

At its own expense, the Lessee will cause to be carried and maintained casualty insurance with respect to each Unit and public liability insurance, in each case in amounts and against risks customarily insured against by the Lessee on similar equipment and, in any event, on equipment owned by it. If requested by the Lessor, all policies with respect to such insurance shall name the Lessor and the Lessee as assureds and loss payees, as their interests may appear, and shall provide for at least 10 days' prior written notice by the underwriter or insurance company to the Lessor in the event of cancellation or expiration. The Lessee shall upon request of the Lessor, furnish appropriate

evidence of such insurance. Notwithstanding the foregoing, Lessee may self-insure all the risk(s) set forth above through Lessee's participation in the self insurance plan of the Canadian National Railway. In January of each year during the term hereof, Lessee shall either (a) deliver to Lessor a certificate of an officer of Lessee stating that Lessee is furnishing self-insurance through Lessee's participation in said plan or (b) deliver to the Lessor, the Owner, the Surety and the Vendor a certificate of insurance by or on behalf of each insurer stating the coverage, named insured and limits of each policy required above.

Except as hereinabove in this Section 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 thereof to the Lessee hereunder.

SECTION 8. Reports. On or before April 1 in each year, commencing with the calendar year next succeeding the calendar year in which this Lease is executed, the Lessee will furnish to the Lessor, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year, or in the case of the first such statement since the date of this Lease (specifying the dates of such Casualty Occurrences), or to the knowledge of the Lessee are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by Section 5 hereof and the Security Document have been preserved or replaced. The Lessor shall have the right by its agents to inspect the Units and the records of the Lessee and its agents with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

The Lessee agrees at its expense to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee or the subleasing by the Lessee pursuant to Section 12 hereof.

SECTION 9. Disclaimer of Warranties; Compliance with Laws and Rules ; Maintenance; Indemnification. THE LESSOR AND THE OWNER DO NOT MAKE ANY, HAVE NOT MADE ANY AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH

SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR AND THE OWNER MAKE NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder. The Lessor and the Owner 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 circumstance 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 (except as expressly provided herein), operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee, on the one hand, and the Lessor, on the other hand, 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, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such applicable laws and rules affect the title, operation or use of the Units and in the event that such laws or rules require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at its own expense; provided, however, that the Lessee may upon written notice to the Lessor and the Vendor, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor,

adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Document.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an Addition thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted.

The Lessee and its affiliates, at their own cost and expense, may from time to time make such alterations, modifications and additions ("Addition") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units, and shall not diminish the value, utility or condition of the Units below the value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; provided, however, that no such Addition shall be made if in the case of an alteration or modification the Unit cannot be readily restored to its condition immediately prior to the time such alteration or modification was made or in the case of an addition the addition is not readily removable from the Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which the Unit would have had immediately prior to such time had such Addition not been made, assuming the Unit was then in the condition required to be maintained by the terms of this Lease.

Title to all Parts (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 Security Document 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 terms of the second or third paragraph of this Section 9 or (iii) notwithstanding the provisions of the fourth paragraph of this Section 9, 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 such 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. The term Part for the purposes of this

paragraph and Section 14 hereof 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.

For conditions and events occurring from and after the commencement of this Lease with respect to any Unit, the Lessee shall, with respect to such Unit, pay or cause to be paid, and shall protect, indemnify and hold the Lessor, the Owner, the Investors and the Vendor (for purposes of this paragraph only, as defined in the Security Document), and their respective successors, assigns, agents and servants (hereinafter called Indemnified Persons), as third party beneficiaries hereof, harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising or alleged to arise out of this Lease or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or imposed by statute; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessee, the Lessor or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation (except by the Indemnified Person seeking indemnity hereunder) or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, subleasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment, the Security Document or the Participation Agreement, except to the extent such claim arises from a negligent act or negligent omission or wilful wrongdoing of the Lessor; or (viii) any claim arising out of the Vendor's holding a security interest under the Security Document or the Lease Assignment (all of which matters hereinabove set forth in this Section 9 being hereinafter called "Indemnified Matters"); excluding, however, in the case of the Builder, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Builder, or out of any breach of warranty or failure to perform any covenant under the

Security Document by the Builder and (ii) any matter covered by the Builder's warranty of material and workmanship and patent indemnification set forth in Item 3 of Annex A to the Security Document. All payments hereunder shall be made directly to the Indemnified Person. The Lessee shall be obligated under this Section 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this Section 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's reasonable request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this Section 9, the Lessee shall pay or cause to be paid to such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of, or the making of provision satisfactory to the Indemnified Person for the full payment of, any Indemnified Matter by the Lessee, and provided that no Event of Default, or event which with notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this Section 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 Indemnified Matter.

The Lessee further agrees to indemnify, protect and hold harmless the Lessor, the Investors, the Vendor and the Owner, as third party beneficiaries hereof, 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 the Lessor or the Investors, the Vendor or the Owner, as a result of conditions or events occurring from and after the commencement date of this Lease with respect to any Unit, because of the use in or about the construction or operation of such Unit 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 of any claim known to the Lessee from which liability may be charged against the Builder under the Security Document.

In the event that, with respect to any Unit as a result of conditions or events occurring from and after the commencement of this Lease with respect to such Unit, the Lessor shall become obligated to make any payment to the Investors or the Vendor (for purposes of this paragraph only) pursuant to Article 13 of the Security Document, or the Owner shall become obligated to make any payment to the Lessor pursuant to any correlative provision of the Trust Agreement, not covered by the foregoing provisions of this Section 9, the Lessee shall pay such additional amounts to the the Owner or the Lessor to fulfill completely its obligations pursuant to said provisions; provided, however, that no such payment shall be required with respect to payments arising as a result of acts of omissions of the Lessor or the Owner or the wilful misconduct or gross negligence of the Lessor or the Owner.

The indemnities contained in this Section 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Section 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Lessor therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of any payment or other obligation, including without limitation the payment of any installments of principal or interest, under the Security Document, or a guarantee of any value of the Equipment following the expiration of the term hereof as such term may or may not be renewed. With respect to the indemnities for Federal income taxes, reference is made to Section 21 hereof.

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

(A) payment of any part of the rental provided in Section 3 or Section 13 hereof or payment in respect of any Casualty Occurrence pursuant to Section 7 hereof shall not be made by or on behalf of the Lessee, and such failure to make payment shall continue for 10 business days after notice of non-payment; or

(B) (x) any representation or warranty of the Lessee contained herein (except the representations and warranties contained in Section 21 hereof) shall have been incorrect in any material respect as of the date when made, unless (i) such misrepresentation or the breach of such warranty has been cured, if curable, within 30 days after written notice thereof to the Lessee from the Lessor or the Vendor, or (ii) there is no material adverse effect on the rights of the Lessor, the Owner or the Vendor hereunder resulting from such misrepresentation or breach, or (iii) any damages resulting from such misrepresentation or breach shall have been paid within 30 days after demand therefor, to the satisfaction of the Lessor, the Owner and the Vendor, or

(y) 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, 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; or

(C) 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 or under the Lessee's 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 obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed or proceedings commenced; or

(D) 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 Lessee's 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 under the Lessee's Consent), 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 or under the Lessee's 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 obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

(E) 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; or

(F) the subjection of any of the Lessee's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency; or

(G) any event of default set forth in such Article 15 of the Security Document shall have occurred and either (i) such event results from any default by the Lessee in performing any of its obligations hereunder or (ii) the Payments (as defined in the Lease Assignment) are not for any reason (other than the negligence or wilful wrongdoing of the Agent) being applied as provided in Paragraph 1 of the Lease Assignment;

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

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

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of

the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing 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 damages (the "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 which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of an 6% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sale value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Lessor shall have sold or leased any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (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 or leasing, as the case may be, as liquidated damages for loss of a bargain and not as a penalty (i) in the case of such sale, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of

termination, over the net proceeds of such sale and (ii) in the case of such a leasing, an amount equal to the excess, if any, of the present value of all rental for such Unit which would otherwise have accrued hereunder from the date of termination to the end of the term of this Lease as to such Unit over the sum of (I) the then present value of all rental for such Unit required under such new lease plus (II) the then present value of the rental (if any) which the Lessor reasonably estimates to be obtainable for the Unit during the period commencing on the termination of such new lease and ending on the date the term of this Lease would have terminated if it had not been terminated early due to default, each such present value to be computed in each case on the basis of an 6% per annum discount, compounded, in the case of rental which is estimated under clause II of this sentence, quarter-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated and, in the case of rental under such new lease, periodically from the respective dates upon which such rental shall be payable thereunder.

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.

In the event that (i) the Bond (as defined in the Security Document) shall for any reason no longer be effective and enforceable or (ii) an event of default set forth in subparagraph (e) with respect to Great American Insurance Company of Article 15 of the Security Document shall have occurred, and provided the interests of the Vendor and the Lessor (and their respective successors and assigns) in this Lease shall not have terminated, then 10 days after such event (A) Lessee shall pay the following amounts: (1) 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 (2) Liquidated Damages (determined in accordance with paragraph (b) of this Section 10), (B) all rights of the Lessee to the use of the Units shall absolutely cease and the Lessee shall return the Units to the Lessor as provided in Section 11, and (C) this Lease shall terminate (except as to those obligations of the Lessee and the Lessor which by the terms of this Lease shall survive this termination). The Lessee shall pay the aforementioned amounts to the Vendor.

(its successors and assigns) for so long as the Security Document shall remain in effect, then, after the Lessee shall have received notice from the Vendor that the Security Document is no longer in effect, to the Lessor.

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

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

The Lessee also agrees to furnish the Lessor, the Owner and the Vendor, promptly upon any responsible officer's becoming aware of any condition which constitutes an Event of Default, or which upon notice or lapse of time or both would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section 10, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate official of the Lessee who in the normal performance of such official's operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 11. Return of Units Upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Lessor pursuant to this Section 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear and modifications, if any, permitted by this Lease excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the

Lessee shall at its own cost, expense and risk cause, at Lessor's option, any, some or all of the following:

(a) the Unit to be detached from each Flat Car to which it is attached,

(b) furnish and arrange for the Lessor to store such Units on any lines of railroad or premises approved by the Lessor until such Units have been sold, leased or otherwise disposed of by the Lessor,

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

(d) use its best efforts to cause the owner of such Flat Cars to enter into an agreement with the Lessor, or the nominee or assignee of the Lessor, in respect of such Flat Cars, similar to the agreement then existing in respect of such Flat Cars between such owner and the Lessee, in which case any movement of such Unit pursuant to (b) or (c) shall be a movement of such Flat Car with such Unit attached.

The assembling, delivery, storage and transporting of the Units as hereinabove provided shall be at the expense and risk of the Lessee and are, together with the agreement to detach such Units, 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 of the covenants of the Lessee so as to assemble, deliver, store, transport and detach the Units. During any storage period, the Lessee will at its own cost and expense, maintain the insurance required by Section 7 of the Lease to be maintained during this period, maintain and keep the Units in good order and repair and, at the Lessee's risk, will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user or any such Unit, to inspect the same, provided, however that the Lessee shall not be liable for any injury to or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents to the extent otherwise provided by law. In the event that the Units or any thereof are sold, the Lessee shall pay to the Lessor the per diem interchange for each such Unit which shall not be assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 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 whosoever shall be in possession of such Unit at the time, and to give all appropriate notices and directions to the Association of American Railroads to change the registration of such Unit from the Lessee to the Lessor as the Lessor may direct.

SECTION 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee; but the Lessee shall be under no obligation to any assignee of the Lessor, other than the Vendor, except upon written notice of such assignment or reassignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under Sections 6, 7, 10 and 21 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's successors and assigns, including the Vendor, except to the extent that the same may be reserved to the Lessor.

So long as no Event of Default hereunder or event of default under the Security Document (as defined therein) shall have occurred, the Lessee shall be entitled to the possession of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them, except as hereinafter provided in this Section 12, provided that if such event of default shall have been the result of an act or omission of the Lessor such termination shall be without prejudice to any claim of the Lessee against the Lessor with respect thereto; provided, however, such claims, if any, of the Lessee against the Lessor shall not in any way affect the Lessee's obligations under Sections 1, 3 and 25 hereof. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Owner, the Lessor or the Vendor and not the result of an Event of Default or resulting from claims against the Owner, the Lessor or the Vendor not related to the ownership of the Units, or liens for taxes for which Lessee is not liable pursuant to this Lease or liens arising from the Rock Island Lease for which Lessee is not liable pursuant to this Lease) upon or with respect to any Unit or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and nonpayment thereof does not, in the reasonable opinion of the Vendor and the Lessor adversely affect the interest

of the Vendor, the Owner or the Lessor in the Units, the Vendor's interest in the income and proceeds from the Units, or otherwise under this Lease or the Security Document. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the next paragraph.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms hereof and to permit the use of the Units by any railroad company or companies incorporated in the United States of America with which it has contractual arrangements for the use of the Units for its benefit upon trackage owned or operated by it or upon lines of railroad owned or operated by such railroad company or companies or over which such railroad company or companies have trackage or other operating rights or over which railroad equipment of such railroad company or companies is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Lease and the Security Document; provided, however, that the Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit to service involving the operation and maintenance thereof outside the United States of America within the meaning of section 48(a) of the Internal Revenue Code of 1954, as amended to August 20, 1979 (hereinafter called the Code), nor shall the Lessee assign or sublease to, or permit the sublease or use of the Units by, any person if such assignment or sublease would cause such Units to fail to qualify as "section 38 property" within the meaning of the Code. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this Section 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 corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have specifically assumed the obligations of the Lessee hereunder by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

In case of any sale or conveyance of all or substantially all of the lines of railroad of the Lessee, or of the lines of the Lessee on which a substantial portion of the Units are used, the purchaser, or transferee of the purchaser, shall not be at liberty to refuse to accept performance of this Lease

or to disaffirm it and any such purchaser and any such transferee shall assume and agree to perform each and all of the obligations of the Lessee hereunder.

SECTION 13. Renewal Options. Provided that this Lease has not been earlier terminated, the Lessee is not in default hereunder, GAMS has exercised its renewal option under the first paragraph of §13 of the Flat Car Lease (as defined in the Security Document), and (within 30 days after delivery of the notice referred to in this paragraph) the "Fair Market Rental Value" (as defined thereunder) has been determined thereunder, the Lessee may by written notice delivered to the Lessor not less than six months prior to the end of the 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 by this Lease for one four year period commencing on the scheduled expiration of the term of this Lease, at a quarterly rental rate equal to the Fair Market Rental Value of each Unit then subject to this Lease; such rental shall be payable in arrears on January 12, April 12, July 12, and October 12 in each year of such extended term of this Lease.

"Fair Market Rental Value" shall be determined on the basis of the value which would be obtained in an arm's-length transaction between an informed and willing lessee-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease pursuant to the first paragraph of this Section 13, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of the Units, such value shall be determined in accordance with the foregoing definition by the following appraisal 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 business days after such notice is given, each party shall appoint an independent appraiser within 25 business days after such notice is given, and the two appraisers appointed shall within 35 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental Value of the Units prior to the expiration of the term of this Lease. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental Value 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 Rental Value. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as were in effect on the date of appointment of the final appraiser, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental Value 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 by the Lessee.

SECTION 14. Return of Units upon Expiration of Term.

On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease, the Lessee will, except as hereinafter provided, at its own cost and expense, at the request of the Lessor, detach each Unit from the Flatcar to which it has been attached, and deliver possession of such Unit to the Lessor to such point or points on the Lessee's lines as shall be designated by the Lessor and arrange for the Lessee to store such Unit on any of the Lessee's lines of railroad or premises approved by the Lessor, in facilities furnished by the Lessee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 90 days from the date at which at least 90% of such Units are first placed in storage pursuant to this Section 14, the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee; provided, however, that if the lines designated by the Lessor for such storage are lines other than Lessee's lines, the cost of using such lines shall be at the Lessor's expense. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable for any injury to or the death of any person exercising, either on behalf of the Lessor or any prospective purchaser or user, the rights of inspection granted under this sentence, except in the case of negligence or wilful wrongdoing of the Lessee or of its employees or agents and except to the extent otherwise provided by law. The assembly, 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 of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed

Upon the expiration of the original term of this Lease on January 12, 1995, if the Lessee has not elected to exercise the renewal option permitted in the first paragraph of Section 13 hereof the Lessee will deliver to the Lessor a certificate of an officer of the Lessee to the effect that (a) no Event of Default or event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of the date this Lease was originally scheduled to terminate; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against or created by the Lessor or the Owner and except for liens for taxes for which the Lessee is not liable pursuant to this Lease and liens arising from the Rock Island Lease for which the Lessee is not liable pursuant to this Lease) were as of the date upon which the original term of this Lease shall have expired, imposed on or with respect to any Unit, any accession thereto, or the interest of the Lessor or the Owner therein; (c) the Units which have been returned to the Lessor pursuant to this Section 14 are in the same operating order, repair and condition required by the first paragraph of this Section 14 and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the preceding sentence shall be furnished on the date upon which the original term of this Lease shall have expired, and the certificates described in clauses (b), (c) and (d) in the preceding sentence, in addition to being furnished on the date upon which the original term of this Lease shall have expired, shall be furnished on a monthly basis, beginning on the next ensuing month, and such certificates shall cover each Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this Section 14. Upon the expiration of any term of this Lease, if the Lessee shall not have elected to exercise any renewal option or if the Lessee shall have no such further renewal option, the Lessee shall deliver to the Lessor a certificate or certificates of an officer of the Lessee to the foregoing effect, with such conforming changes as shall be appropriate under the circumstances.

SECTION 15. Recording. The Lessee, at its own expense, will cause this Lease, the Lease Assignment and any sublease permitted under Section 12 hereof (including any assignment or reassignment hereof or thereof) to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. §11303. The Lessee, at its own expense, will further cause this Lease and/or appropriate financing statements or continuation statements to be filed and recorded, and, from time to time when required, refiled and rerecorded, in accordance with the applicable provisions of the Uniform Commercial Code of the State of Michigan (and, if the Lessee changes its chief place of business, to any such other State) in like manner as if the Lessor's interest in this Lease represented a security interest or in any other State of the United States of America or the District of Columbia

where filing is reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to the satisfaction of counsel of the Lessor and Vendor, of their interests and rights under this Lease or the purpose of carrying out the intention of this Lease. The Lessee will, at its own expense, undertake every filing, registering, deposit, and recording required of the Lessor under the Security Document, 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 Lessor's and the Vendor's respective interests in the Units, or (to the extent relating to this Lease or Units) for the purpose of carrying out the intention of this Lease, the Security Document or the Lease Assignment.

SECTION 16. Additional Opinions. The Lessee will promptly furnish to the Lessor and the Vendor evidence of every filing, registering, depositing or recording required pursuant to Section 15 hereof, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease shall be filed and recorded with the Interstate Commerce Commission within 5 days after execution by the Lessee and the Lessor.

SECTION 17. Obligations of Lessor Under Security Document; Additional Rentals. In the event that the Lessor shall become obligated to make any payment in respect of the Units (other than (i) obligations to make payments in settlement for Equipment or the principal of or interest on the Conditional Sale Indebtedness (as defined in the Security Document) pursuant to the Security Document or pursuant to the proviso to the third paragraph of Article 12 thereof, (ii) obligations to provide insurance required by the last paragraph of Article 7 of the Security Document and (iii) obligations imposed in an Event of Default under the Security Document if the Lessee is not in default hereunder), the Lessee shall pay such additional rentals hereunder and perform such obligations so that all of the Lessor's obligations (other than as aforesaid) pursuant to the Security Document shall be fully complied with, without regard for any limitation of liability of the Lessor contained in the Security Document.

SECTION 18. Lessor's Right To Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at 11% per annum (or such lesser amount as may be legally enforceable) shall be payable by the Lessee upon demand.

SECTION 19. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to 11% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

SECTION 20. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when delivered to such other party or by registered or certified mail, first-class postage prepaid, addressed as follows:

if to the Lessor, at 79 South Main Street (Suite 310), Salt Lake City, Utah 84111, Attention of Trust Division, Corporate Trust Department;

if to the Lessee, at 131 West Lafayette, Detroit, Michigan 48226 Attention: Secretary

if to the Surety, at One East Fourth Street, Cincinnati, Ohio 45202;

or addressed to any party at such address as such party shall hereafter furnish to the other party in writing. Any certificate, document or report required to be furnished by any party hereto to the other party shall be delivered to the address set forth above or so furnished for such party. Any notice to the Lessee by the Vendor or the Investors regarding the Lessee's failure to perform any obligation hereunder shall also be furnished by the Lessee to the Lessor.

SECTION 21. Federal Income Taxes. The Rock Island Lease was entered into on the basis of an opinion of the chief mechanical officer of Rock Island to the effect described in the last paragraph of this Paragraph 21 and that the Owner, as the beneficial owner of each Unit, shall be entitled to such deductions, credits and other benefits provided by the Internal Revenue Code of 1954, as amended, (hereinafter called the Code) to an owner of property, including without limitation (a) deductions for depreciation of each Unit under section 167 of the Code commencing in the year that such Unit is delivered to the Lessor under the Security Document computed on the basis (i) that each Unit will have a basis under section 167(g) of the Code at least equivalent to the Purchase Price of such Unit, (ii) initially of the declining balance method, using a rate equal to 200% of the straight line rate, switching to the sum of the years-digits method authorized by section 167(b)(2) and (3) of the Code, in the year in which such switch will result in a greater deduction than would be available under the declining balance method, without obtaining the consent of the Commissioner of the Internal Revenue, (iii) of the asset depreciation range and class life system permitted by section 167(m) of the Code and Income Tax

Regulation §1.167(a)-11, and (iv) of an asset depreciation period of 12 years (hereinafter called the ADR Deductions), (b) deductions with respect to interest on the Conditional Sale Indebtedness when paid or accrued, in accordance with the method of accounting on the basis of which the Owner regularly computes its income provided such basis is authorized by and fully conforms to the provisions of section 163 of the Code (hereinafter called the Interest Deductions), (c) an investment credit pursuant to section 38 of the Code in the year that each Unit was delivered to the Lessor under the Security Document at least equal to 10% of the Purchase Price of such Unit (hereinafter called the Investment Credit). The Rock Island Lease was also entered into on the assumption that for Federal income tax purposes all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States.

The Lessee understands that (a) the Owner has claimed on its Federal income tax returns the Investment Credit, the ADR Deductions and the Interest Deductions, respectively, (b) the Owner has treated on its Federal income tax returns the income and deductions with respect to the Equipment as derived from, or allocable to, sources within the United States, and (c) the Lessor is entering into this Lease with the understanding that, at all times during the term of the Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with any of the foregoing provisions of this Section 21.

The Lessee agrees to use its best efforts to maintain sufficient records to verify the amount of income and deductions in respect of each Unit allocable to sources within and without the United States. The Lessee agrees to give the Owner, within 60 days after request therefor, written notice describing the amount of income and deductions allocable to sources within and without the United States and specifying in reasonable detail the basis on which such allocations were made, if such information is required in connection with an audit by the Internal Revenue Service of the tax returns of the Owner. In addition, within 90 days after the end of each calendar year, beginning with the year this Lease is executed, the Lessee agrees to furnish to the Owner a statement to the effect that from the delivery of the Units hereunder, none of the Units has been used outside of the United States other than in Canada or Mexico on a temporary basis not exceeding 90 days during the preceding calendar year, or if any of the Units was used outside the United States during such year, giving the appropriate details of any such use, which statement shall be signed by the Vice President Finance or Treasurer of the Lessee.

If, for Federal income tax purposes, as a result of (1) the inaccuracy of any statement made by the Lessee in any document furnished to the Lessor or the Owner by the Lessee (or any officer, agent or employee thereof); or (2) the noncompliance, breach, or misrepresentation by the Lessee with or of any provision of this Section 21; or (3) the use of any Unit by the Lessee in such a way as to disqualify it as "section 38 property" within the meaning of section 48(b) of the Code or as property eligible for the ADR Deduction; or (4) any actions or omissions by the Lessee, except any actions or omissions permitted by the terms of this Lease, but excluding any of the specific occurrences or events specified in the eighth paragraph of this Section 21, (a) the Owner shall not be entitled to, or shall suffer a disallowance or recapture of or shall lose the benefit of, or shall lose the right to claim (including a good faith determination based upon the opinion, to be obtained at the cost of the Lessee, of independent tax counsel of the Owner approved by the Lessee ("Special Tax Counsel"), which approval shall not be unreasonably withheld, that such claim is not allowable), all or any portion of the Investment Credit, the ADR Deductions or the Interest Deductions or (b) any item of income or deduction with respect to a Unit shall not be treated as derived from, or allocable to, sources within the United States (any such event described in clause (a) or (b) of this paragraph being hereinafter called a Loss), then the Lessee, at its option, after receiving written notice from the Owner of such Loss together with a certificate of an officer of the Owner setting forth in reasonable detail the computations and methods used in calculating such Loss and the amount or amounts of the payments required to be paid pursuant to clause (i) or (ii) below (such notice and certificate being hereinafter collectively called the Net Economic Return Notice), shall either (i) commencing with the next rental payment date occurring more than 30 days after receipt by the Lessee of the Net Economic Return Notice, which Net Economic Return Notice may not be delivered more than 30 days prior to payment by the Owner of the tax which becomes due as a result of the Loss, increase the rental payments under this Lease over its remaining term by such an amount which shall enable the Owner to realize its contemplated net return (such economic yield being hereinafter called the "Net Economic Return"), or (ii) within 30 days of receipt of the Net Economic Return Notice, pay to the Owner in lump sum the amount required to provide the Owner with the Net Economic Return. If the option under (ii) above is selected, then to the extent any Loss results in a later benefit to the Owner, payment will be made to the Lessee at the time such benefit is realized; provided, however, that the Owner shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Lessee to the Owner pursuant to the option specified in (ii) above in respect of a Loss less (y) the amount of all prior payments by the Owner to the Lessee hereunder, and the amount by which such payment would exceed such amounts shall reduce pro

tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the option specified in (ii) above. The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and assumptions as were utilized by the Owner in originally evaluating the transaction except for the assumption that resulted in such adjustments.

In the event that the Owner suffers a Loss and the Owner and the Lessee are unable to agree, within 60 days following the Lessee's receipt of a Net Economic Return Notice, on the indemnity amounts or amounts required to restore the Owner's Net Economic Return, then the Lessee shall pay in a lump sum within 30 days after expiration of said 60-day period, such amount as shall, in the reasonable opinion of the Owner (regardless of whether the Lessee agrees therewith) be required to provide the Owner with the Net Economic Return that would have been realized by the Owner if such Loss had not occurred.

Any late payment by any party hereto of any of its obligations under this Section 21 shall result in the obligation on the part of such party promptly to pay an amount equal to interest at the rate per annum equal to 1% over the Prime Rate compounded quarterly on the overdue payment. Prime Rate as used herein shall mean the rate per annum which The Chase Manhattan Bank, N.A., New York, New York, charges for 90-day unsecured loans to large corporate borrowers of the highest credit standing from time to time in effect for the period such interest is payable.

Notwithstanding anything to the contrary set forth hereinabove, no amount shall be payable as an indemnity hereunder in respect of any Loss to the extent such Loss is the result of any of the following:

(i) a voluntary transfer or voluntary disposition (whether prior to, during or after the term of this Lease), of any Unit or of the interest of the Owner in any Unit or the rentals under this Lease, or any transfer or disposition of any Unit or of the interest of the Owner in any Units or the rentals under this Lease, whether voluntary or involuntary, which results from bankruptcy or other proceedings for the relief of debtors in which the Owner is the debtor, unless, in each case, such transfer or disposition is made (A) as a direct result of an Event of Default, as defined in Section 10 of this Lease, which has occurred and is continuing; (B) in connection with any alteration, modification or addition to any Unit; or (C) with the consent of the Lessee;

(ii) the failure of the Owner to claim in a timely manner the Investment Credit, the ADR Deductions (including making all appropriate elections under the

applicable Income Tax Regulations), the Interest Deductions or any foreign tax credit or to make a timely election, if permitted by the Code, to treat income and deductions with respect to the Units as derived from, or allocable to, sources within the United States, unless the independent tax counsel to the Owner approved by the Lessee ("Special Tax Counsel") shall have given its opinion to the Owner that such claim is not allowable;

(iii) the failure of the Owner to have sufficient liability for Federal income tax against which to credit Investment Credit or foreign tax credit or sufficient income to benefit from the ADR Deductions or the Interest Deductions, as applicable;

(iv) a change in the form or type of organization or the taxable status of the Owner or any successor or transferee of the Owner;

(v) any residual sharing, guarantee agreement or other voluntary act of the Owner (either individually or in concert with others) which is not included in the foregoing clauses and which is not required or contemplated by this Lease, the Lease Assignment, or the Consents;

(vi) a Casualty Occurrence with respect to a Unit, if the Lessee shall have paid all amounts required to be paid in respect of such Casualty Occurrence under this Lease, the Lease Assignment and the Lessee's Consent; or

(vii) any amendment to, or change in, the Code or the Income Tax Regulations which is enacted after January 1, 1979 (whether or not retroactively effective for any period on or prior to such date).

If at the conclusion of an audit the Owner receives a preliminary or "30-day-letter" from the Internal Revenue Service proposing an adjustment in any item claimed in accordance with the second and third paragraphs of this Section 21 on a tax return or refund claim of the Owner for which the Lessee would be required to indemnify the Owner and/or Lessor pursuant to this Section 21 and the amount of the indemnity which the Lessee would be required to pay (after taking into account the effect that the adjustment would have in periods not included in the audit) would exceed \$25,000 or in the good faith opinion of the Lessee, the adjustment would have a continuing or precedential effect on the Lessee or the railroad industry and the Lessee so advises the Lessor and the Owner in writing, the Lessee shall not be required to indemnify the Owner or Lessor unless and until the Owner takes the action set forth below, provided that at any time, whether before or after commencing to take such action, the Owner may

decline to take such action by notifying the Lessor and the Lessee in writing that the Lessor and the Lessee are relieved of their obligations to indemnify the Owner with respect to such adjustment or any such portion specified in such notice. Upon receipt of such preliminary or 30-day letter the Lessor shall promptly notify the Lessee of the proposed adjustment and, upon receipt within 20 days after Lessee's receipt of such notice of a written request to do so from the Lessee, the Lessor shall cause the Owner to promptly request from the independent tax counsel selected by the Owner and approved by the Lessor and the Lessee, which approval shall not be unreasonably withheld (hereinafter called the Owner's Tax Counsel), their opinion whether there is a reasonable basis for contesting such proposed adjustment. If the opinion is to the effect that there is such a reasonable basis for contesting such proposed adjustment, the Lessor shall cause the Owner to contest such proposed adjustment beyond the level of the Internal Revenue Service auditing agent by such administrative proceedings, if any, as may be determined by the Owner in its discretion. Upon the conclusion of such administrative proceedings, if any, the Lessor shall promptly notify the Lessee of the final adjustment proposed by the Internal Revenue Service and, upon receipt within 30 days thereafter of a written request to do so from the Lessee, the Lessor shall cause the Owner to promptly request the Owner's Tax Counsel for their opinion whether there is a reasonable basis for contesting such final adjustment. If the opinion is to the effect that there is such a reasonable basis for contesting such final adjustment, the Owner will contest such final adjustment in a court of competent jurisdiction. If the Lessee requests Owner to appeal the decision of such a court or of an intermediate appellate court, the Owner shall promptly request the Owner's Tax Counsel for its opinion whether there is a reasonable of basis for contesting such adjustment. If the opinion is to the effect that there is such a reasonable basis for appealing such decision, the Lessor shall cause the Owner to appeal such decision. The Owner, in its discretion, shall determine the initial and any appellate court and, if the adjustment relates to an item claimed on a tax return, shall determine whether the proceedings shall be for redetermination of the deficiency proposed to be assessed by the Internal Revenue Service or for refund of taxes paid based on such deficiency. The Owner shall not be required to take any action as set forth in this paragraph unless and until the Lessor and the Lessee shall have agreed to indemnify the Owner in a manner satisfactory to the Owner for any liability or loss which the Owner may incur as a result of taking such action and shall have agreed to pay the Owner on demand all out-of-pocket costs and expenses, including without limitation reasonable attorneys' fees and expenses, incurred by the Owner in connection with taking such action. The Lessor shall not be required to take any action as set forth in this paragraph unless and until the Lessee shall have agreed to indemnify the Lessor in a manner satisfactory to the Lessor for any liability, loss or expense which the Lessor may incur as a result of taking such action and shall have agreed to pay the Lessor on demand all out-of-pocket costs and expenses, including

without limitation reasonable attorneys' fees and expenses, incurred by the Lessor in connection with taking such action. In the event that the Owner pays the tax resulting from a proposed adjustment and proceeds to seek a refund thereof, the Lessee agrees to pay the Owner an amount equal to interest at the rate per annum currently charged by the Internal Revenue Service on deficiencies on the amount of tax in question from the date of payment of such tax to the date of final determination of such adjustment, such amount to be payable in equal installments within each calendar year on the dates on which rental for such period is payable under this Lease. Upon receipt by the Lessor from the Owner of a refund of any tax paid by it in respect of which the Lessee paid an amount equal to interest at the rate provided in the preceding sentence while such tax payment was contested by the Owner, an amount equal to the aggregate amount of such interest shall be paid by the Lessor to the Lessee forthwith. Upon completion of the action set forth in this paragraph, the Lessee's liability with respect to its required indemnity under this Section 21 shall become fixed and determinable.

For purposes of this Section 21, the term "Owner" shall include any affiliated group, within the meaning of section 1504 of the Code, of which the Owner is a member if consolidated returns are filed for such affiliated group for Federal income tax purposes.

If at any time prior to the disposition of a Unit in a taxable transaction, the Owner is required to include in its gross income an amount in respect of any improvement and/or addition to such Unit made by the Lessee which is not readily removable from such such Unit without causing material damage to such Unit (such improvements or additions being hereinafter called Improvements), then the Lessee shall pay to the Owner, as an indemnity, such amount or amounts which, after deduction of all Taxes required to be paid by the Owner in respect of the receipt of such amounts, shall be equal to the sum of the additional Federal, state or local income taxes payable by the Owner from time to time as a result of such Improvement plus the amount of any interest, penalties or additions to tax payable as a result of any such Improvement (less any Federal, state or local tax benefits resulting from payment of any amounts reimbursed hereunder). If as a result of any such Improvement the aggregate Federal, state and local income taxes paid by the Owner for any taxable year shall be less than the amount of such taxes which would have been payable by the Owner had no such Improvement been made, then the Lessor shall pay the Lessee (when received by the Lessor from the Owner) the amount of such savings in taxes plus any additional tax benefits realized by the Owner as a result of such payment; provided, however, that the Lessor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by Lessee to the Owner pursuant to this paragraph in respect of any Improvement less (y) the amount of all prior payments by the Lessor to the Lessee hereunder, and

the amount by which such payment would exceed such amount shall reduce pro tanto any subsequent obligation of the Lessee to make any payments to the Owner pursuant to the first sentence of this paragraph. For purposes of computing any amounts payable to the Owner and any amounts payable to the Lessee pursuant to this paragraph, the statutory rate of Federal, state or local income tax, as the case may be, shall be used. The amount payable to the Owner pursuant to this paragraph shall be paid within 30 days after receipt of the written demand therefor from the Lessor (but not prior to payment by the Owner of the additional taxes which become due as a result of the said inclusion) accompanied by a written statement describing in reasonable detail such inclusion and the computation of the amount so payable. Any payment due to the Lessee from the Lessor pursuant to this paragraph shall be paid immediately after the Lessor receives from the Owner the amount that the Owner realized from any such savings in its income taxes or additional tax benefits, as the case may be. The Lessor agrees to cause the Owner to contest the inclusion in its gross income of any amount with respect to an Improvement to the extent, and under the circumstances, set forth in the ninth paragraph of this Section 21 as if such inclusion were a Loss.

The Lessee agrees that, within 90 days after the close of any calendar year (or in the event that the Lessor gives the Lessee written notice that the Owner's taxable year closes on a date specified therein other than December 31, within 90 days after said date) in which the Lessee has made Improvements, the Lessee will give written notice thereof to the Owner, describing such Improvements in reasonable detail and specifying the cost thereof with respect to each Unit.

In the event that any indemnity payments are required to be made by the Lessee, or in the event the amount of rentals under this Lease are adjusted, pursuant to any paragraph of this Section 21, the damages and amounts set forth in Section 10 of this Lease and the applicable Casualty Values set forth in Section 7 of this Lease shall be appropriately adjusted by the Owner (but in no event shall the applicable Casualty Values be reduced below the corresponding Fair Values as defined in the Security Document). The adjustments required to be made pursuant to this paragraph shall be made by the Owner and shall be computed using the same method and the same assumptions, including, without limitation, tax rates, as were utilized by the Owner in originally evaluating the Lease except for the assumption that has resulted in such adjustment. In connection therewith, the Lessor shall cause the Owner to provide the Lessee with a certificate of an officer of the Owner setting forth in reasonable detail the figures and methods used in making such calculations. In the case of any such adjustments in the damages and amounts set forth in Section 10 of this Lease and the applicable Casualty Value set forth in Schedule B to this Lease, if any payment of such damages, amounts or Casualty Values shall have been made by the Lessee prior to the adjustments made pursuant to this paragraph, (a) the

Lessee shall pay to the Owner the excess amount which would have been payable on the due date of such payment by reason of the adjustments pursuant to this paragraph or (b) the Lessor shall pay to the Lessee when received from the Owner the amount of such payments in excess of the amount of such payments which would have been payable by reason of the adjustments pursuant to this paragraph. The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this Section 21 shall survive the expiration or other termination of this Lease.

The Lessee shall have the right, upon demand, to have Thayer, Ringoen & Macdonald, 50 California Street, San Francisco, California 94111, or another independent party selected by the Lessee and approved by the Owner, which approval shall not be unreasonably withheld, review any calculations made by the Owner pursuant to this Section 21 to determine the consistency of the methods and the assumptions used in such calculations with those used by the Owner in originally evaluating this transaction and the accuracy of such computations based on such methods and assumptions.

The liability of the Lessee to make indemnification payments pursuant to this Section 21 shall, notwithstanding any expiration or termination of this Lease, continue to exist until such indemnity payments are made by the Lessee. All indemnity payments under this Section 21 shall be made directly to the Owner.

The Rock Island has furnished to the Owner a written opinion of the chief mechanical officer of the Rock Island to the effect that each Unit has an estimated useful life which will extend to at least April 1, 1994, and an estimated fair market value (without including in such value any increase or decrease for inflation or deflation, and after subtracting from such value any cost to the Lessor for removal and delivery of possession of the Equipment to the Lessor) at December 15, 1994, of at least 20% of the Purchase Price of the Equipment.

SECTION 22. Lessor Acting as Trustee. The representations, undertakings and agreements herein made on the part of the Lessor are made and intended for the purpose of binding only the Trust Estate as such term is defined in the Trust Agreement.

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor.

SECTION 23. No Recourse. No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor or the Lessee, or against the Owner or any other beneficiary of a trust for which the Lessor is acting as trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement

Builder, the Vendor and the permitted successors and assigns of a party, each of which shall be deemed to be a third party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

SECTION 25. Additional Interim Rental; Condition Subsequent. For the initial interim term of this Lease with respect to each Unit delivered during such term, the Lessee shall pay as additional interim rental on the quarterly rental payment date next succeeding the date such amounts are collected by the Lessee the following:

for each day occurring during the initial interim term that such Unit is not located on trackage of the Lessee, 60% of all per diem, incentive per diem, and mileage charges (net of reclaims), earned by the Lessee, less the sum of (i) all reasonable costs of repairs incurred by the Lessee and chargeable to other railroads, for which the Lessee has not received reimbursement from a delivering railroad or other responsible entity pursuant to AAR Rules and any other applicable rules and regulations, within 90 days of billing such charges (and, following any such deduction from amounts payable to Lessor as aforesaid, the Lessee agrees to diligently pursue such claims and remit any amounts so collected to the Lessor promptly upon receipt thereof), (ii) 60% of all running repairs made by other railroads during said initial interim term and charged to the Lessee, (iii) the product of \$7.53 and the number of days such Unit is not located on trackage of the Lessee, and (iv) 60% of reclaims on which per diem, incentive per diem and mileage charges have been previously been paid to the Lessor.

If the amount of the reduction permitted by (i), (ii), (iii) and (iv) of this subparagraph is greater than the amount payable by the Lessee under this Lease before such reduction, the Lessee shall be permitted to apply such excess as an offset against the amount otherwise payable under this Lease at succeeding rental payment dates until fully applied.

Lessor shall diligently pursue the obtaining of a final order (i.e., one as to which no appeal has been taken prior to the expiration of the time allowed for appeal) of the court having jurisdiction over the Rock Island Reorganization Proceedings, authorizing relinquishment of the Units to the Lessor. Notwithstanding any other provision of this Lease to the contrary, if the Lessee shall lose possession of any Unit as a result of the Lessor's failure to obtain such final order, this Lease shall terminate as to such Unit on the date (the "Return Date") that the Lessee lost possession. Thereafter, the Lessee shall have no further obligation under this Lease for such Unit except the

obligation to pay rent accrued to the Lessee before the Return Date which did not arise as a result of such termination.

SECTION 26. 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 counterpart. 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.

SECTION 27. 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.

SECTION 28. Agreement for Benefit of the Owner. All rights of the Lessor hereunder (including, but not limited to, its rights under Sections 6, 7, 9, 10 and 21, and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Owner and any of the Owner's permitted successors and assigns under the Trust Agreement.

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

GRAND TRUNK WESTERN RAILROAD COMPANY
as Lessee

By 
Vice President

Attest:



FIRST SECURITY STATE BANK, not in its individual capacity but solely as Owner-Trustee for Merrill Lynch Leasing, Inc., as Lessor

By 

[CORPORATE SEAL]

Attest:



STATE OF MICHIGAN)
) ss.:
COUNTY OF WAYNE)

On this 14th day of November, 1980, before me personally appeared P.E. Tatro to me personally known, who, being by me duly sworn, says that he is Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and be acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

J. A. Brewer
Notary Public

J. A. BREWER
Notary Public, Wayne County, Mich.
My Commission Expires Dec. 16, 1981

[NOTARIAL SEAL]

My Commission expires

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

The foregoing instrument was acknowledged before me this 5th day of December, 1980 by ROBERT S. CLARK, an Authorized Officer of First Security State Bank, a Utah corporation, on behalf of the Corporation.

Randy B. Marchant
Notary Public

[NOTARIAL SEAL]

My Commission expires

2-8-83

SCHEDULE A TO AUTO RACK LEASE

<u>Type</u>	<u>Builder's Specification and Intended Service</u>	<u>Builders Plant</u>	<u>Quantity</u>	<u>Attached to Flatcars with Road Numbers (Inclusive)</u>
New Bi-Level Fully Enclosed Auto Racks	General Motors EBPS-119 latest revision	Winder, Georgia	42	GTW-504125 to GTW-504166
New Tri-Level Fully Enclosed Auto Racks	General Motors ETKP-112 latest revision	Winder, Georgia	37	GTW-310120 to GTW-310156
New Bi-Level Semi-Enclosed Auto Racks	Ford EBPS-119 Latest Revision	Winder, Georgia	105	GTW-504225 to GTW-310201 <i>Re</i> 504329
New Tri-Level Fully Enclosed	Ford ETKP-122	Winder Georgia	45	GTW-310157 to GTW-310201
			229	

Purchase Price:

(1) General Motors EBPS - 119 -	\$26,087.91 per Unit
(2) General Motors ETKP - 112 -	\$33,326.23 per Unit
(3) Ford - EBPS - 119	\$19,067.04 per Unit
(4) Ford EKTP -122	\$31,520.00 per Unit (14) \$33,409.10 per Unit (33)

CASUALTY VALUES* - 229 Auto Racks

Item I:	Calculation Date (the 22nd day of the following month):	Percentage of Purchase Price	Calculation Date	Percentage of Purchase Price
	3/1979	82.477235	3/1989	32.865387
	6/1979	82.339248	6/1989	30.969567
	9/1979	82.126254	9/1989	29.079644
	12/1979	81.836262	12/1989	27.196048
	3/1980	81.491648	3/1990	25.302900
	6/1980	81.062725	6/1990	23.576995
	9/1980	80.566558	9/1990	21.927198
	12/1980	80.001379	12/1990	20.000000 and thereafter
	3/1981	79.384682		
	6/1981	78.690835		
	9/1981	77.933560		
	12/1981	77.111204		
	3/1982	76.237833		
	6/1982	75.295271		
	9/1982	74.293840		
	12/1982	73.232029		
	3/1983	72.120410		
	6/1983	70.948480		
	9/1983	69.723096		
	12/1983	68.442914		
	3/1984	67.114954		
	6/1984	65.736619		
	9/1984	64.311241		
	12/1984	62.837665		
	3/1985	61.319292		
	6/1985	59.761690		
	9/1985	58.164594		
	12/1985	56.527077		
	3/1986	54.848850		
	6/1986	53.143927		
	9/1986	51.408367		
	12/1986	49.641513		
	3/1987	47.839304		
	6/1987	46.024521		
	9/1987	44.189471		
	12/1987	42.333800		
	3/1988	40.449604		
	6/1988	38.568766		
	9/1988	36.679754		
	12/1988	34.782577		

* The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the above schedule opposite each such rental payment date.

EXHIBIT A

CERTIFICATE OF ACCEPTANCE

The undersigned (the "Lessee") hereby certifies that the units of railroad equipment (individually a "Unit" and collectively the "Units") identified on Exhibit A, attached hereto as part hereof, have been delivered to, and inspected and accepted by, the Lessee as Units under that certain Lease of Railroad Equipment (the "Lease") dated as of May 1, 1979, between the Lessee and First Security State Bank, covering up to 229 auto racks. The Lessee certifies that each such Unit is in Operable Condition (as defined in the Lease). Each Unit became, on the Delivery Date (as defined in the Lease) as specified on Exhibit A, subject to all the terms and conditions of the Lease. The Lessee further certifies that each Unit has been marked in accordance with Section 5 of the Lease and bears the identifying number of the Lessee specified on Exhibit A.

Grand Trunk Western Railroad Company

By: MA

Attest Earl C. Oppertbauer Printed Name: PE Tatro

EARL C. OPPERTHAUSER

Printed Name: _____ Title: VP Finance

Title: Asst Secretary Date: 3-5-81

Date: 3-5-81

(CORPORATE SEAL)

ACKNOWLEDGEMENT

STATE OF MICHIGAN)
) ss:
County of Wayne)

On this 5th day of March, 1980, before me personally appeared PE Tatro to me personally known, who, being by me duly sworn, says that he is Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

J. A. Brewer
Notary Public

J. A. BREWER
Notary Public, Wayne County, Mich.
My Commission Expires Dec. 16, 1981

EXHIBIT A

<u>Previous Identifying Number</u>	<u>Lessee's Identifying Number</u>	<u>Date Delivered</u>	<u>Rent Date</u>
As shown on the flat car to which the rack is attached.			
RI 990000	GTW 504125	3-26-80	3-29-80
001	126	3-22-80	3-29-80
002	127	3-23-80	3-29-80
003	128	3-23-80	3-29-80
004	129	3-22-80	3-29-80
005	130	3-23-80	3-29-80
006	131	3-22-80	3-29-80
008	133	3-22-80	3-29-80
009	134	5-10-80	5-14-80
010	135	3-22-80	3-29-80
011	136	3-23-80	3-29-80
012	137	3-23-80	3-29-80
013	138	3-22-80	3-29-80
014	139	3-23-80	3-29-80
015	140	3-22-80	3-29-80
016	141	3-23-80	3-29-80
017	142	3-22-80	3-29-80
018	143	3-22-80	3-29-80
019	144	3-22-80	3-29-80
020	145	3-22-80	3-29-80
021	146	3-22-80	3-29-80
022	147	3-22-80	3-29-80
023	148	3-22-80	3-29-80
024	149	3-23-80	3-29-80
025	150	3-23-80	3-29-30
026	151	3-22-80	3-29-80
027	152	3-22-80	3-29-80
028	153	3-22-80	3-29-80
030	155	3-22-80	3-29-80
031	156	3-22-80	3-29-80
032	157	3-22-80	3-29-80
033	158	3-22-80	3-29-80
034	159	3-23-80	3-29-80
035	160	3-23-80	3-29-80
036	161	3-22-80	3-29-80
037	162	3-22-80	3-29-80
038	163	3-22-80	2-29-80
039	164	3-23-80	3-29-80
040	165	3-22-80	3-29-80
041	166	3-22-80	3-29-80

EXHIBIT A

<u>Previous Identifying Number</u>	<u>Lessee's Identifying Number</u>	<u>Date Delivered</u>	<u>Rent Date</u>
As shown on the flat car to which the rack is attached.			
RI 990042	GTW 504225	3-23-80	4-6-80
043	226	3-23-80	4-6-80
044	227	3-23-80	4-6-80
045	228	3-22-80	4-6-80
046	229	3-22-80	4-6-80
047	230	3-22-80	4-6-80
048	231	3-23-80	4-6-80
049	232	3-22-80	4-6-80
050	233	3-22-80	4-6-80
051	234	3-23-80	4-6-80
052	235	3-23-80	4-6-80
053	236	3-22-80	4-6-80
054	237	3-28-80	4-6-80
055	238	3-24-80	4-6-80
057	240	3-27-80	4-6-80
058	241	3-22-80	4-6-80
060	243	3-22-80	4-6-80
062	245	3-22-80	4-6-80
063	246	3-28-80	4-6-80
064	247	4-1-80	4-6-80
065	248	3-22-80	4-6-80
066	249	4-21-80	4-25-80
067	250	3-28-80	4-6-80
068	251	4-18-80	4-21-80
069	252	4-21-80	4-25-80
070	253	3-30-80	4-6-80
071	254	3-24-80	4-6-80
072	255	3-23-80	4-6-80
073	256	3-23-80	4-6-80
074	257	3-24-80	4-6-80
076	259	4-15-80	4-18-80
077	260	3-28-80	4-6-80
078	261	3-28-80	4-6-80
079	262	4-1-80	4-6-80
080	263	3-27-80	4-6-80
081	264	4-7-80	4-11-80
082	265	4-13-80	4-15-80
083	266	3-23-80	4-6-80
084	267	3-22-80	4-6-80
085	268	3-23-80	4-6-80
086	269	3-30-80	4-6-80
087	270	3-23-80	4-6-80
088	271	3-31-80	4-6-80
089	272	3-22-80	4-6-80
090	273	5-7-80	5-11-80
091	274	3-30-80	4-6-80
092	275	3-24-80	4-6-80
093	276	3-22-80	4-6-80
094	277	3-24-80	4-6-80

EXHIBIT A

<u>Previous Identifying Number</u>	<u>lessee's Identifying Number</u>	<u>Date Delivered</u>	<u>Rent Date</u>
As shown on the flat car to which the rack is attached.			
RI 990095	GTW 504278	3-24-80	4-6-80
096	279	3-22-80	4-6-80
097	280	4-21-80	4-25-80
098	281	3-23-80	4-6-80
099	282	3-24-80	4-6-80
100	283	3-23-80	4-6-80
101	284	3-27-80	4-6-80
102	285	3-24-80	4-6-80
104	287	3-30-80	4-6-80
105	288	3-28-80	4-6-80
106	289	4-21-80	4-25-80
107	290	3-24-80	4-6-80
108	291	3-29-80	4-6-80
109	292	3-28-80	4-6-80
* 110	293	4-1-80	4-6-80
112	295	4-10-80	4-14-80
113	296	5-17-80	5-20-80
114	297	3-28-80	4-6-80
115	298	3-29-80	4-6-80
116	299	3-28-80	4-6-80
118	301	3-28-80	4-6-80
119	302	5-7-80	5-11-80
120	303	3-24-80	4-6-80
121	304	4-21-80	4-25-80
122	305	3-28-80	4-6-80
123	306	3-24-80	4-6-80
124	307	3-24-80	4-6-80
125	308	4-5-80	4-6-80
126	309	4-5-80	4-6-80
127	310	4-15-80	4-18-80
128	311	4-07-80	4-11-80
129	312	4-13-80	4-15-80
130	313	5-21-80	5-25-80
131	314	3-24-80	4-6-80
132	315	4-1-80	4-6-80
133	316	4-7-80	4-11-80
134	317	3-30-80	4-6-80
135	318	5-17-80	5-20-80
136	319	3-30-80	4-6-80
137	320	3-27-80	4-6-80
138	321	3-23-80	4-6-80
139	322	3-29-80	4-6-80
140	323	3-30-80	4-6-80
141	324	3-31-80	4-6-80
142	325	3-22-80	4-6-80
144	327	5-7-80	5-11-80
145	328	3-28-80	4-6-80
146	329	3-23-80	4-6-80
* 111	294	5-17-80	1-12-81

EXHIBIT A

<u>Previous</u> <u>Identifying Number</u>	<u>lessee's</u> <u>Identifying Number</u>	<u>Date</u> <u>Delivered</u>	<u>Rent</u> <u>Date</u>
As shown on the flat car to which the rack is attached.			
RI 990056	GTW 504239	11-2-80	11-6-80
059	242	7-18-80	7-22-80
061	244	10-4-80	10-8-80
103	286	10-4-80	10-8-80
117	300	10-4-80	10-8-80

EXHIBIT A

<u>Previous Identifying Number</u>	<u>Lessee's Identifying Number</u>	<u>Date Delivered</u>	<u>Rent Date</u>
As shown on the flat car to which the rack is attached.			
RI 995045	GTW 310120	8-30-80	12-30-80
RI 995046	GTW 310121	3-22-80	3-29-80
047	122	3-22-80	3-29-80
048	123	3-22-80	3-29-80
049	124	3-22-80	3-29-80
050	125	3-22-80	3-29-80
051	126	3-22-80	3-29-80
052	127	4-7-80	4-11-80
053	128	3-23-80	3-29-80
054	129	3-22-80	3-29-80
055	130	3-23-80	3-29-80
056	131	3-22-80	3-29-80
057	132	3-23-80	3-29-80
058	133	3-26-80	3-29-80
059	134	3-23-80	3-29-80
060	135	3-22-80	3-29-80
061	136	3-22-80	3-29-80
062	137	3-22-80	3-29-80
063	138	3-22-80	3-29-80
064	139	3-22-80	3-29-80
065	140	3-22-80	3-29-80
066	141	3-22-80	3-29-80
067	142	3-22-80	3-29-80
068	143	3-23-80	3-29-80
069	144	3-23-80	3-29-80
070	145	3-22-80	3-29-80
071	146	3-23-70	3-29-80
072	147	4-2-80	4-6-80
073	148	3-23-80	3-29-80
074	149	3-22-80	3-29-80
075	150	3-23-80	3-29-80
076	151	5-4-80	5-8-80
077	152	3-22-80	3-29-80
078	153	3-22-80	3-29-80
079	154	3-23-80	3-29-80
080	155	3-23-80	3-29-80
081	156	3-23-80	3-29-80

EXHIBIT A

<u>Previous</u> <u>Identifying Number</u>	<u>lessee's</u> <u>Identifying Number</u>	<u>Date</u> <u>Delivered</u>	<u>Rent</u> <u>Date</u>
As shown on the flat car to which the rack is attached.			
RI 995001	GTW 310158	3-23-80	4-6-80
002	159	3-27-80	4-6-80
003	160	3-23-80	4-6-80
004	161	3-22-80	4-6-80
005	162	3-23-80	4-6-80
006	163	3-23-80	4-6-80
007	164	3-23-80	4-6-80
008	165	3-22-80	4-6-80
009	166	3-23-80	4-6-80
011	168	3-22-80	4-6-80
012	169	3-22-80	4-6-80
013	170	3-23-80	4-6-80
014	171	3-23-80	4-6-80
015	172	3-22-80	4-6-80
016	173	4-2-80	4-6-80
017	174	3-22-80	4-6-80
018	175	3-31-80	4-6-80
019	176	4-20-80	4-24-80
020	177	3-28-80	4-6-80
021	178	3-23-80	4-6-80
022	179	3-23-80	4-6-80
023	180	4-5-80	4-6-80
024	181	3-23-80	4-6-80
025	182	4-19-80	4-23-80
026	183	3-23-80	4-6-80
028	185	3-23-80	4-6-80
029	186	3-23-80	4-6-80
030	187	3-23-80	4-6-80
032	189	3-23-80	4-6-80
033	190	3-23-80	4-6-80
034	191	3-23-80	4-6-80
035	192	3-23-80	4-6-80
037	194	3-23-80	4-6-80
038	195	3-23-80	4-6-80
039	196	3-27-80	4-6-80
040	197	3-22-80	4-6-80
041	198	3-23-80	4-6-80
042	199	3-22-80	4-6-80
043	200	3-23-80	4-6-80
044	201	8-30-80	12-30-80