

THE BANK OF NEW YORK

NEW YORK'S FIRST BANK - FOUNDED 1791 BY ALEXANDER HAMILTON

REGISTRATION NO. 13790 Filed 1425

SEP 13 1982-9 40 AM

48 WALL STREET, NEW YORK, N. Y. 10015

INTERSTATE COMMERCE COMMISSION

REGISTRATION NO. 13790 Filed 1425

2-256A060

Agatha L. Mergenovich, Secretary SEP 13 1982-9 40 AM
Interstate Commerce Commission
Washington, D.C. 20423
INTERSTATE COMMERCE COMMISSION

No. SEP 13 1982

Date

Fee \$ 100.00

ICC Washington, D. C.

Re: Lease of Railroad Equipment dated
as of June 30, 1982 between
The Bank of New York, as Lessor,
and PQ Corporation, as Lessee

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 1303 and the rules and regulations thereunder, we enclose for recordation with the Interstate Commerce Commission, fully executed counterparts of the following documents:

- (1) Lease of Railroad Equipment dated as of June 30, 1982, between The Bank of New York, as Lessor, and PQ Corporation, as Lessee.
- (2) Security Agreement dated as of June 30, 1982 between The Bank of New York, as Debtor, and The Philadelphia National Bank, as Secured Party.

The names and addresses of the parties to the aforementioned Lease and Security Agreement are:

(1) Owner-Lessor:

The Bank of New York
48 Wall Street
New York, New York 10015

Attention: Leasing Department

(2) Lessee:

PQ Corporation
Valley Forge Executive Mall
Post Office Box 840
Valley Forge, Pennsylvania 19482

Attention: Mr. Russell T. Hubler

C. Overly

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SEP 13 @ 34 AM '82
FEE OPERATION RR.

THE BANK OF NEW YORK

Agatha L. Mergenvoich, Secretary
Page 2
September 1, 1982

(3) Secured Party:

The Philadelphia National Bank
Post Office Box 7681
Philadelphia, Pennsylvania 19101

Attention: Mr. Samuel Shipley

Please file and record the documents referred to in this letter and index them under the names of the Owner-Lessor, the Lessee and the Secured Party.

The Equipment subject to the Lease and Security Agreement is described in Exhibit A to the Lease and consists of pressure differential covered hopper railroad cars, 5150 cubic feet capacity with serial numbers NAHX 550233 through NAHX 550270.

Also enclosed is a check for \$100.00 payable to the Interstate Commerce Commission, representing the fee for recording the Lease and Security Agreement.

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. Please deliver the remaining counterparts to the bearer of this letter.

Very truly yours,

THE BANK OF NEW YORK

By: 

Robert B. Purcell,
Vice President

RBP:gs
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

9/13/82

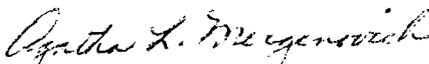
OFFICE OF THE SECRETARY

Robert B. Purcell, VP.
The Bank Of New York
48 Wall Street
New York, N.Y. 10015

Dear **Sir:**

The enclosed document (s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **9/13/82** at **9:40** , and assigned re-
recording number (s). **13790 & 13790-A**

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

4214B - 6/18/82

13790
RECORDATION NO. Filed 1425

SEP 13 1982 -9 40 AM

INTERSTATE COMMERCE COMMISSION

THE BANK OF NEW YORK,
LESSOR

and

PQ CORPORATION,
Lessee

LEASE OF EQUIPMENT

dated as of

June 30, 1982

This instrument is executed in counterparts, with one executed counterpart bearing the initialed legend "ORIGINAL" across the bottom of the first page, and each of the other executed counterparts bearing the initialed legend "COPY" across the bottom of the first page. Only the executed counterpart marked "ORIGINAL" shall be deemed to be "CHATTEL PAPER" the delivery of which to a secured party shall perfect a security interest therein. Each executed counterpart marked "COPY" shall be deemed to be an executed original for evidentiary purposes but shall not be deemed to be "CHATTEL PAPER".

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Exhibit A - Equipment Description List
Exhibit B - Form of Certificate of Acceptance
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LEASE OF EQUIPMENT

LEASE OF EQUIPMENT dated as of June 30, 1982, (the "Lease") between The Bank of New York (hereinafter called the "Lessor"), and PQ Corporation, a Pennsylvania corporation (hereinafter called the "Lessee").

WHEREAS the Lessee desires to lease from the Lessor certain equipment under this Lease, consisting of 38 New PD 5000 Hopper cars or such lesser number as are delivered and accepted and settled for under the terms hereof and which are described on Exhibit A attached hereto (which are hereinafter individually called "Unit" or "Unit of Equipment" and, collectively, "Units", "Units of Equipment", or the "Equipment") at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS in connection with the Equipment to be leased hereunder, the Lessor has borrowed or will borrow funds from The Philadelphia National Bank (hereinafter referred to as the "Secured Party") pursuant to a Participation Agreement (hereinafter referred to as the "Participation Agreement"), dated as of June 30, 1982, among the Lessor, the Lessee and the Secured Party, and the Secured Party has or will have a security interest in the Lease and the Equipment in accordance with a certain Security Agreement between the Lessor and the Secured Party, dated as of June 30, 1982, (hereinafter referred to as the "Security Agreement"), and the Lessee and the Lessor have entered into an Indemnity Agreement dated as of June 30, 1982 (hereinafter referred to as the "Indemnity Agreement");

WHEREAS the Lessor shall acquire the Units of Equipment at the Purchase Price (including transportation, storage and taxes) set forth in Exhibit A hereto (hereinafter referred to as the "Purchase Price") from North American Car Corporation (hereinafter called the "Builder") under the terms and conditions of this Lease, the Participation Agreement and the Purchase Agreement Assignment between the Lessor and the Lessee dated as of June 30, 1982 (hereinafter referred to as the "Purchase Agreement Assignment");

WHEREAS, the Lessor and the Lessee intend that this Lease conform to the guidelines for determining whether a transaction constitutes a lease for Federal income tax purposes, as set forth in Rev.Proc. 75-21, 1975-1 C.B. 715, as amended, modified and supplemented;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, and the parties intending to be legally bound hereby, the Lessor hereby leases the Units to the

Lessee, and the Lessee hereby leases the Units from the Lessor, upon the following terms and conditions:

SECTION 1: Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, 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 Secured Party under this Lease 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 (including without limitation, loss through condemnation or other governmental taking) or loss of use or destruction of all or any of the Units from whatsoever cause (including any loss of possession or use by reason of any breach of the covenant of quiet enjoyment contained herein), any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall be absolute and unconditional (except as otherwise specifically provided herein) and shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units, except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such rentals or other payment from the Lessor. Nothing herein shall be deemed to preclude the Lessee from instituting suit against the Lessor for monetary damages, including damages measured by rent paid.

SECTION 2: Delivery and Acceptance of Items. The Lessor hereby appoints the Lessee or any person or persons appointed by the Lessee as its agent for inspection and acceptance of the Units pursuant hereto. The Lessor will cause each Unit to be delivered to the Lessee at the point or points at which such Unit is delivered to the Lessor. Upon such delivery, the Lessee will cause an inspector appointed by the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance substantially in the form of Exhibit B hereto attached (each of such certificates of acceptance hereinafter called a "Certificate of Acceptance"),

dated as of the date of such delivery and acceptance with respect to each Unit or Units accepted in accordance herewith, stating that each such Unit has been inspected and accepted on behalf of the Lessor and the Lessee on the date of such Certificate of Acceptance and is marked in accordance with Section 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and Lessor and shall be subject thereafter to all the terms and conditions of this Lease. By the execution and delivery of each such Certificate of Acceptance, the Lessee acknowledges to the Lessor that there are no defects in any of the Units of Equipment covered by such Certificate of Acceptance. The acceptance of a Unit or Units of Equipment in accordance with this Section 2 shall not constitute a waiver or release of any claim that the Lessee or the Lessor may have against the Builder of such Unit or Units of Equipment.

SECTION 3: Rent.

(A) Interim Rent. The Lessee will pay to the Lessor interim rent ("Interim Rent") for each Unit of Equipment identified in a Certificate of Acceptance in an amount per day equal to .030367% of the Purchase Price thereof for the period from the closing date for such Unit of Equipment to and including December 31, 1982.

(B) Basic Rent. The Lessee will pay to the Lessor Basic Rent ("Basic Rent") for each Unit of Equipment identified in a Certificate of Acceptance in 40 semi-annual installments, payable in arrears. The semi-annual payments of Basic Rent shall each be in an amount equal to 5.466% of the aggregate Purchase Price of the Units of Equipment subject to this Lease. With respect to any Basic Rent payment date, the Basic Rent payment payable by Lessee shall be increased (or decreased) by the amount that the interest due on the Note on such date exceeds (or is less than) the interest that would have been due if the Note had borne interest at the rate of 17.0% per annum. At least three days prior to each semi-annual Basic Rent payment date, the Lessor will advise the Lessee, or cause the Lessee to be advised, of the amount of the Basic Rent due on such rental payment and the calculations showing how the amount was arrived at.

(C) Rent Payment Dates. Interim Rent shall be due and payable on January 1, 1983. Basic Rent shall be due and payable beginning July 1, 1983 and each and every January 1 and July 1 thereafter, with the final payment of Basic Rent due on January 1, 2003.

(D) Business Days, etc. If any of the semi-annual rental payment dates referred to above is a legal holiday or a bank holiday in New York or Pennsylvania the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The Lessee agrees to make all payments provided for in this Lease by 11:00 a.m., Eastern Time, in immediately available funds from time to time to the Secured Party, at Chestnut and Broad Streets,

Philadelphia, Pennsylvania, Attention Mr. Samuel Shipley; or at such other place in the continental United States as the Secured Party may, in writing, direct.

SECTION 4: Term of Lease. The interim term of the lease shall commence as to each Unit of Equipment upon the date of acceptance of such Unit and shall end on December 31, 1982. The basic term of this Lease as to each Unit of Equipment shall begin on January 1, 1983 (the "Basic Lease Term Commencement Date"); provided, however, that no Unit shall be accepted after December 31, 1982. Subject to the provisions of Sections 7, 9, 10, 13, 14 and 18 hereof, this Lease shall terminate with respect to a Unit of Equipment on the date on which the final payment of Basic Rent in respect of such Unit of Equipment is paid pursuant to Section 3 hereof.

SECTION 5: Identification Marks. The Lessee will, at its own expense, cause each Unit to be kept numbered with the serial number set forth in Exhibit A hereto, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each Unit, in letters not less than one inch in height, the words "LEASED FROM THE BANK OF NEW YORK AND SUBJECT TO A SECURITY INTEREST HELD BY THE PHILADELPHIA NATIONAL BANK AND FILED WITH THE INTERSTATE COMMERCE COMMISSION" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law and reasonably designated by the Lessor in order to protect the Lessor's title to and the Secured Party's security interest in such Unit and the rights of the Lessor under this Lease, and of the Secured Party under the Security Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such name and words shall have been so marked thereon and will replace promptly any such name and words which may be removed, defaced or destroyed.

The Lessee will not change the identification number of any Unit unless and until the Lessee shall, at its own expense, have prepared amendments to the Lease and the Security Agreement in form satisfactory to the Lessor and Secured Party, which amendments shall include a statement of new number or numbers to be substituted therefor and upon execution of said amendments by the Lessee, Lessor and Secured Party, the same shall be filed by the Lessee in all public offices where this Lease and the Security Agreement shall have been filed and the Lessor and the Secured Party shall have been furnished with such other documents as they may reasonably request.

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

SECTION 6: Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and Secured Party and, with respect to such payments, the Lessee indemnifies and holds harmless the Lessor and the Secured Party separately:

- (A) For collection or related charges; and
- (B) With respect to the amount of:
 - (i) any local, state, federal or foreign taxes, other than:
 - (a) any United States federal income tax, and
 - (b) to the extent that the Lessor receives credit therefor against its United States federal income tax liability, any foreign income or withholding tax with respect to the payments provided for herein, and
 - (c) the aggregate of all state or local income taxes or franchise taxes measured by net income based on such payments, or gross receipts taxes based on such payments (except gross receipts taxes in the nature of sales or use taxes);
 - (ii) any license fees, assessments, charges, fines and penalties hereafter levied or imposed upon or in connection with or measured by this Lease or by the rental, use, payment, shipment, delivery, or transfer of title pursuant to purchase option provisions under the terms hereof, or on the conveyance of a security interest under the Security Agreement;

all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called "Impositions", all of which Impositions the Lessee assumes and agrees to pay within 15 days after demand (accompanied by a statement in reasonable detail as to the amount payable) in addition to the other payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above), or upon the Lessor or the Secured Party solely by reason of their respective interests in any Unit, and will keep at all times all and every part of such Unit free and clear of all Impositions which might in any way affect the interests of the Lessor or the Secured Party or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any Impositions of any kind so long as it is contesting them in good faith and by appropriate legal proceedings and the nonpayment thereof does not, in the reasonable opinion of the Lessor or the Secured Party, materially adversely affect the title, property or rights of the Lessor or the Secured Party; and further provided, the

Lessee shall not be required to pay any Imposition until the same is legally due and payable. If any Impositions shall have been charged or levied against the Lessor or the Secured Party directly and paid by the Lessor or the Secured Party (excluding the taxes specified in Section 6(B) hereof), the Lessee shall promptly reimburse the Lessor or the Secured Party on presentation of a reasonably detailed statement therefor; provided, however, that the Lessor shall not act so as unreasonably to preclude the Lessee's ability to contest any Imposition where either the Lessor or the Lessee has a right so to contest and where there exists a reasonable possibility of success on the merits. The Lessor shall fully cooperate with the Lessee in any such contest.

In the event any reports with respect to Impositions are required to be made, the Lessee will either make them or cause them to be made in such manner as to show the interests of the Lessor and the Secured Party in such Units or notify the Lessor and the Secured Party of such requirement and make such reports or cause them to be made in such manner as shall be reasonably satisfactory to the Lessor and the Secured Party; provided, however, that the Lessor and the Secured Party shall provide such information and assistance as shall be appropriate in the circumstances. Lessee shall promptly send or cause to be sent a copy of such report or return to Lessor and Secured Party.

In the event that the Lessor shall become obligated to make any payment to the Secured Party pursuant to Section 6 of the Security Agreement not covered by the provisions of this Section 6, the Lessee shall promptly pay on demand such additional amounts (which shall also be deemed Impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said Section 6 of the Security Agreement.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any Imposition, pursuant to this Section 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

SECTION 7: Payment for Casualty Occurrences. In the event that (a) any Unit shall be or become worn out, lost, stolen, destroyed, or, in the reasonable opinion of the Lessee irreparably damaged, from any cause whatsoever, or taken or requisitioned or seized by any governmental agency by condemnation or otherwise resulting in loss of possession by the Lessee for a period of sixty (60) consecutive days; or (b) title to any of the Units shall be impaired and the Lessee's right of possession lost for a period of sixty (60) consecutive days or more as a result of the failure of Lessee to take such steps as may reasonably be necessary to protect and preserve the title of Lessor to the Units free and clear of all liens charges and encumbrances (except those created or caused by the Lessor or resulting from claims against the Lessor not arising out of the ownership or leasing of the Equipment or assumed by the

Lessee hereunder) during the term of this Lease, (such occurrences being hereinafter called "Casualty Occurrences") the Lessee shall promptly and fully notify the Lessor and the Secured Party within five (5) days of Lessee's learning of a Casualty Occurrence. On the Basic Rent payment date next succeeding such notice (or, in the event such notice is delivered after the 60th day next preceding the expiration of the term of this Lease or any renewal thereof, on the expiration date of such term or renewal term), the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with this Section 7. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue and the term of this Lease as to such Unit shall terminate. In the event that the Lessee has paid the Casualty Value with respect to a Unit that has been the subject of a Casualty Occurrence, then the Lessor shall, without further consideration and at Lessee's expense, execute and deliver to the Lessee a bill of sale for such Unit, on the terms set forth in Section 13 hereof.

The Casualty Value of each Unit of Equipment as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth opposite the date of the applicable Basic Rent payment date in Exhibit C attached hereto.

Except as provided in this Section 7, 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 during the term of this Lease or any extension or renewal thereof with respect to such Unit.

SECTION 8: Reports. On or before July 1, in each year, beginning July 1, 1983, the Lessee will furnish to the Lessor and the Secured Party an accurate statement (a) setting forth as of the preceding March 31, the description and serial numbers of all Units of Equipment then leased hereunder, the description and serial numbers of all Units of Equipment that have suffered a Casualty Occurrence not reflected in a previous report pursuant to this Section 8, the number of miles of actual use of each Unit of Equipment during the 12-month period ending the preceding March 31, and such other information regarding the condition and state of repair of the Units of Equipment as the Lessor or Secured Party may reasonably request (which statement shall be in addition to the notice of Casualty Occurrence required in Section 7); and (b) stating that, in the case of all Units of Equipment repainted or repaired during the period covered by such statement, the serial numbers and the markings required by Section 5 hereof have been preserved or replaced. The Lessor, at its sole cost and expense shall have the right by its agents, to inspect the Units of Equipment and the Lessee's records with respect thereto, at their then present location, at such reasonable times following at least

three days' prior written notice to the Lessee as the Lessor may request during the continuance of this Lease. In addition, upon reasonable, prior written request by the Lessor or the Secured Party, Lessee shall promptly advise such person of the location of any Unit of Equipment subject to this Lease.

SECTION 9: Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OF EQUIPMENT OR ANY COMPONENT THEREOF, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE; except that the Lessor, represents and warrants that the Lessor has whatever title to the Units was originally conveyed to the Lessor, free and clear of all liens, charges and encumbrances attributable to any act or failure to act on the part of the Lessor unrelated to the transactions contemplated hereby or in the Participation Agreement. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for 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 of any Unit of the Equipment; provided Lessor may, at its option, revoke such appointment upon the occurrence of an Event of Default. Unless an Event of Default shall have occurred and be continuing, any sum collected as a result of such enforcement shall be paid to the Lessee to the extent required to correct the defects in the Units and to reimburse the Lessee for its reasonable costs of collection (including reasonable attorneys' fees and expenses), and any recoveries on account of consequential damages shall be paid to the Lessee. The balance of any sums so collected by the Lessee shall remain the property of Lessor and shall be paid over to Lessor forthwith. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the matters referred to in this paragraph; provided, however, that nothing contained herein shall be deemed in any way to release or relieve the Builder's obligations with respect to the Equipment nor to impair Lessor's rights or Lessee's rights as agent hereunder, to enforce such obligations.

The Lessee agrees, for the benefit of the Lessor and Secured Party, to comply in all respects with all laws of the jurisdictions in which the Units of Equipment may be used or operated, and with all lawful rules of any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units

(including, without limitation, the rules of the United States Department of Transportation, the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads in effect from time to time); provided that, in any event, Lessee shall comply in all respects with all such laws and rules as involve any possibility of criminal liability on the part of the Lessor or the Secured Party, or any possibility of liability on the part of the Lessor or the Secured Party not indemnified against by the Lessee. Notwithstanding the foregoing sentence, in the event that such laws or rules require the alteration of the Units, or in case any equipment or appliance on any Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on any Unit in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense. The Lessee may at its own expense, upon written notice thereof to the Lessor and the Secured Party, in good faith contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Lessor or Secured Party (based upon consultation with counsel if requested by Lessee and paid for by Lessee) adversely affect the property or rights of, nor constitute substantial risk of liability on the part of, the Lessor or the Secured Party under this Lease.

Subject to the provisions of Section 7 hereof, the Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in the same condition as when it was accepted, ordinary wear and tear excepted, and in any event, suitable for use in interchange in accordance with the Interchange Rules of the Association of American Railroads. The Lessee will comply with all requirements and recommendations of the Builder for the use, maintenance and operation of the Equipment, including the Builder's current manuals of operation, and any supplement or update thereto received by Lessee; provided, however, that Lessee shall not be obligated to incur any costs or expense under this paragraph with respect to any Unit which cost or expense exceeds the then Casualty Value of such Unit and may, in lieu thereof, pay such Casualty Value to the Lessor, whereupon this Lease shall terminate with respect to such Unit and the Lessor shall, without further consideration and at Lessee's expense, execute and deliver to the Lessee a bill of sale for such Unit, on the terms set forth in Section 13 hereof.

The Lessee shall use the Equipment for the customary purpose or purposes and in the manner for which such Equipment was designed.

Any and all additions to any Unit and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Agreement) shall immediately be vested in the Lessor, and

the Secured Party as their respective interests appear in the affected Unit; provided, however, that the Lessee, at its own cost and expense, may furnish additions to any Unit during the term of this Lease provided that such additions do not diminish the value, utility or condition of such Unit and are readily removable without causing material damage to such Unit, in which case such additions shall be owned by the Lessee, and may be removed by the Lessee, at its expense, without causing material damage to such Unit (which damage shall be repaired), upon or prior to return of such Unit to the Lessor pursuant to Section 11 or Section 14 hereof, except those which the Lessee is required to install pursuant to the second and third paragraphs of this Section 9.

The Lessee hereby indemnifies, protects and holds harmless the Lessor and the Secured Party, separately, from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, and expenses in connection therewith, including, but not limited to, attorneys' fees and expenses, patent liabilities, or penalties and interest arising out of or as the result of the entering into or the performance of this Lease, the ownership of any Unit at any time prior to the termination of this Lease and the return of the Equipment to the Lessor in accordance with Section 14 hereof, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage, freight charges or return of any Unit at any time prior to the termination of this Lease and the return of the Equipment to the Lessor in accordance with Section 14 hereof or any accident during such period of time in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 14 of this Lease, and except as directly results from such indemnitee's gross negligence or wilful misconduct. Any payments made pursuant to the indemnities provided for in this paragraph shall be augmented by such sum, if any, as may be necessary to defray any additional tax liability of the indemnitee that would not have been incurred but for the indemnity and to put the indemnitee in the same financial position he would have been in had such event not occurred. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease, the termination of this Lease, or damage to, or the destruction of, any or all Units of Equipment.

Anything in this Section 9 to the contrary notwithstanding, the Lessee shall not be required to indemnify the Lessor, the Secured Party or any other person (hereinafter referred to in this paragraph as the "Indemnitees") against any loss, damage, injury, liability, claim or demand whatsoever which arises out of or is caused by the gross negligence or wilful misconduct of such Indemnitee, provided, however, that no such gross negligence or wilful misconduct of one Indemnitee shall be imputed to any other Indemnitee nor be deemed to relieve the Lessee of its obligation to the other Indemnitees.

The Lessee shall 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 returns for taxes for which Lessee is not responsible pursuant to Section 6 hereof) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership, lien or leasehold by the Lessor or the Secured Party of the Units, or the leasing thereof other than reports required solely by reason of the business of Lessor, or Secured Party, not related to this Lease or its subject matter, provided, however, that the Lessor and the Secured Party shall cooperate fully with the Lessee and, to the extent appropriate, join in and execute such reports.

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

A. Default shall be made in payment of any amount then due and payable under this Lease and such default shall continue for five days;

B. The Lessee shall make or permit any unauthorized sublease, assignment or transfer of this Lease or of possession of any Unit or Units not permitted by Section 12 hereof or shall fail to meet its obligations under Section 17 hereof;

C. Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue unremedied for 30 days after the earlier of receipt of actual knowledge by any officer of the Lessee or written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied; provided, however, that if Lessee has commenced to cure such default within the 30-day period and is diligently pursuing such cure in good faith, then the cure period shall be extended by the amount of time reasonably necessary to complete the cure;

D. Any representation or warranty made by the Lessee herein or by or on behalf of the Lessee in any document or certificate furnished to the Lessor by or on behalf of the Lessee in connection herewith or pursuant hereto shall at any time prove to have been incorrect as of the date or dates when made, in any material respect;

E. The Lessee shall consent to the appointment of a receiver, trustee, custodian or liquidator of itself or of a substantial part of its property, or the Lessee shall admit in writing its inability to pay its debts generally as they come due, or shall make a general assignment for the benefit of creditors, or the Lessee shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under the Federal

Bankruptcy Code (as now or hereafter in effect) or an answer admitting the material allegations of a petition filed against the Lessee in any such proceeding, or the Lessee shall by voluntary petition, answer or consent, seek relief under the provisions of any other now existing or future bankruptcy, insolvency or other similar law providing for the liquidation, reorganization or winding-up of corporations, or providing for an arrangement, composition, extension or adjustment with its creditors;

F. An order, judgment or decree shall be entered against the Lessee without that party's consent, by any court or governmental agency of competent jurisdiction appointing a receiver, trustee, custodian, liquidator or other similar official of the Lessee or of any substantial part of its property, or any substantial part of the property of the Lessee shall be sequestered, and any such order, judgment or decree of appointment or sequestration shall remain in force undismissed, unstayed or unvacated for a period of 60 days after the date of entry thereof;

G. A petition against the Lessee in a proceeding under the Federal Bankruptcy Code or other insolvency laws (as now or hereafter in effect) shall be filed and shall not be withdrawn, stayed or dismissed within 60 days thereafter, or if, under the provisions of any law providing for reorganization or winding-up of corporations which may apply to the Lessee, any court of competent jurisdiction shall assume jurisdiction, custody or control of the Lessee or of any substantial part of its property and such jurisdiction, custody or control shall remain in force, unrelinquished, unstayed or unterminated for a period of 60 days;

H. A default by Lessee under the Participation Agreement or a default under any other instrument evidencing indebtedness of the Lessee for borrowed money such as to cause an acceleration of such indebtedness, shall have occurred and be continuing;

Then, in any such case, the Lessor or its assignee, at its option, may:

- (a) proceed by appropriate court 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, including without limitation reasonable attorneys' fees; or
- (b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units of Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units of Equipment may be and take possession of all or any of such Units of

Equipment and thenceforth hold, possess and enjoy the same, free from any right of the Lessee, or its successors or assigns, to use the Units of Equipment for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which, under the terms of this Lease, may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period to be computed in each case on the basis of a per annum rate of discount equal to 75% of the then prime lending rate of the Bank of New York, compounded annually from the respective dates upon which rentals pursuant to Section 3 hereof would have been payable hereunder had this Lease not terminated, or (y) an amount equal to the excess, if any, of the Casualty Value of each Unit as of the rental payment date on or next preceding the date of termination over the amount that the Lessor reasonably estimates to be the sales value of each Unit as such time; provided, however, that in the event that the Lessee shall object to the amount specified by the Lessor pursuant to either of the preceding clauses (x) and (y) the parties shall cause an appraisal to be made in the manner provided in Section 13 of this Lease, to determine, at Lessee's sole expense, the applicable amount under the preceding clauses (x) and (y) and such determination shall be binding upon the Lessor and the Lessee, but such amount shall in any event be sufficient to repay the unpaid principal amount of the outstanding Secured Notes together with all accrued interest (including any penalty interest) thereon to the date of payment; provided further, that in the event that the Lessor shall have sold any Unit (which sale shall be in a commercially reasonable manner), the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee may at its sole option demand that the Lessee pay to it, and the Lessee shall

pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale; and provided further, that the Lessor's recovery pursuant to options (x) or (y) shall in no event exceed the difference between the Casualty Value of such Unit and (i) if such Unit shall have been sold following the Event of Default, the proceeds of such sale or (ii) if such Unit shall not have been sold, its Fair Market Value as determined in accordance with Section 13 hereof.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive (other than the limitation of damages provided in subparagraph (b) above), 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 mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any setoff against the rental payments due hereunder, and agrees to make rental payments regardless of any setoff or claim which may be asserted by the Lessee or on its behalf, except to the extent specifically permitted hereunder. Nothing herein contained shall be deemed to limit or impair Lessee's right to enforce any right against Lessor by separate action.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any Event of Default shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar Events of Default.

SECTION 11: Return of Equipment Upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units of Equipment to the Lessor in at least as good operating order, repair and condition as that in which the Lessee is obligated to maintain the Equipment pursuant to Section 9 hereof, provided, however, that Lessee may remove from such Units additions that are the property of Lessee pursuant to Section 9 hereof, before returning the Units to the Lessor. For the purpose of delivering possession of any Unit or Units of Equipment to the Lessor as above required, the Lessee shall, at its own cost, expense and risk:

- (a) forthwith cause each such Unit of Equipment to be transported to such place in the continental United States of America, except the State of Alaska, as the Lessor may designate in writing; and

- (b) store each such Unit of Equipment on such lines of railroad so designated by Lessor (which may be, if Lessor shall designate, premises owned or leased by Lessee) at the risk and expense of the Lessee for 180 days or until the same has been satisfactorily disposed of by the Lessor, whichever occurs earlier.

The delivery, storage and transporting of the Equipment as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease. 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 to deliver, (store) and transport the Equipment as provided herein. (During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit of Equipment, to inspect the same during normal business hours.)

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 of Equipment to the Lessor, to demand and take possession of such Unit of Equipment at the time.

SECTION 12: Assignment, Possession and Use. Except as provided in this Section, in the first five years of the term hereof, this Lease or the rents hereunder shall not be assignable by the Lessor without the consent of the Lessee, except to a wholly-owned subsidiary of the Lessor or of Bank of New York Company, Inc. Thereafter, subject to the provisions of Section 13 hereof, this Lease or the rents hereunder shall be assignable in whole by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the assignee. All the rights of the Lessor hereunder (including, but not limited to, the rights under Sections 6, 7, 10 and 15, and the rights to receive the rent payable under this Lease) shall inure to the benefit of the Lessor's assigns. Any assigns of the Lessor's rights (except the Secured Party) shall be bound by all the terms and obligations hereof.

In furtherance of the immediately preceding paragraph, the Lessee acknowledges that pursuant to the Security Agreement the Lessor shall assign to the Secured Party its rights under this Lease excepting from such assignment the indemnities of the Lessee running to the Lessor contained in Sections 6 and 9 of the Lease to the extent that the Lessee has agreed to indemnify the Secured Party separately in each instance (such indemnities of Lessee so excepted being hereafter referred to as the "Excepted Indemnities"). The Lessee acknowledges that it has reviewed the Security Agreement and

is familiar with the reservation by the Lessor of its rights under this Lease with respect to the Excepted Indemnities which are to be considered personal indemnities and not part of the security assignment of this Lease for purposes of the Security Agreement, and the Lessee acknowledges that those Excepted Indemnities will not be assigned to the Secured Party. The Excepted Indemnities shall be and remain enforceable by the Lessor and against the Lessee notwithstanding the assignment by the Lessor of all other of its right, title and interest in and to this Lease. As to the Lessor, the Lessee waives any defense to its obligations under this Lease arising solely out of the fact that some but not all of Lessor's rights under this Lease have been assigned.

The Lessee, at its own expense, will promptly at all times during the term of this Lease or any extension or renewal thereof and upon return of the Equipment pursuant to Section 11 or 14 hereof, pay or discharge any and all liens, charges, security interests or other encumbrances (other than liens, charges, security interests or other encumbrances created or caused by the Lessor or Secured Party, or other assignee of Lessor or resulting from claims against the Lessor or Secured Party or other assignee of Lessor not arising out of the ownership or leasing of the Equipment or assumed by Lessee hereunder) upon or with respect to any Unit of Equipment, including any accession thereto, or the interest of the Lessor or Secured Party therein; provided, however, that the Lessee shall not be obligated to pay or discharge any such liens, charges, security interests or encumbrances so long as it is contesting same in good faith and in appropriate legal proceedings and the effect of which has been suspended by bond or stayed and Lessee has made an adequate reserve therefor in accordance with generally accepted accounting principles. 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 of Equipment, except to the extent permitted by the provisions of this Section 12; provided, however, that Lessee's delivery of any Unit to a railroad for use in interchange shall not be deemed to violate this Section 12.

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 Equipment and to the quiet enjoyment thereof in accordance with the terms of this Lease, but without the prior written consent of the Lessor and the Secured Party, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them; provided, however, that the Lessor shall not unreasonably withhold its consent to any sublease of the Units if such sublease satisfies each of the requirements hereinafter set forth. At any time during the term hereof, no more than two (2) subleases shall be in effect. Every such sublease shall expressly subject the rights of the sublessee under such sublease to the rights of the Lessor in respect of each Unit covered by such sublease in the event of the happening of an Event of Default, shall in all respects be subject and subordinate to this Lease, shall permit the Unit or Units

subject to such sublease to be used only in the same geographical area in which such Unit or Units may be used by the Lessee pursuant to this Lease, shall not release or otherwise discharge the Lessee from any of its obligations under this Lease, and shall be evidenced by documents satisfactory to the Lessor and the Secured Party. In no event shall any assignment, transfer or sublease relieve the Lessee of any of its obligations, liabilities or duties hereunder, which shall be and remain those of a principal and not of a guarantor or surety.

Lessee will not cause or permit the Equipment to be used in such manner or to carry any cargo that will expose the Equipment to penalty or forfeiture.

The Lessee will not cause or permit any Unit of Equipment to be used outside the continental United States of America and Canada, without the prior written consent of the Lessor.

Any removal or loss of possession caused by a Casualty Occurrence or by a governmental agency exercising the power of condemnation shall not be considered a breach of Lessee's obligations contained in this Section 12. 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 corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder, under the Indemnity Agreement and under the Participation Agreement) 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 upon the effectiveness of such merger, consolidation or acquisition, no Event of Default shall have occurred and be continuing hereunder.

SECTION 13: Purchase and Renewal Options and Right of First Refusal. Provided that this Lease shall not have been earlier terminated and that no Event of Default shall have occurred and be continuing, the Lessee may by written notice delivered to the Lessor not less than nine months prior to the end of the original term or any extended term of this Lease, as the case may be, elect (a) to purchase all of the Units then covered by this Lease at the end of such term or such extended term for a purchase price equal to the Fair Market Value (as hereinafter defined) of such Units as of the end of such term or extended term or (b) to extend the term of this Lease in respect of all of such Units then covered by this Lease for an additional one year period commencing on the scheduled expiration of the original term or the extended term of this Lease, as the case may be. In the event that the term of this Lease is extended pursuant to the preceding sentence, the Lessee shall pay rentals in arrears at the "Fair Market Rental" in semi-annual payments on July 1 and January 1 in each year of such extended term.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than a lessee currently in possession or a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. "Fair Market Rental" shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before eight months prior to the expiration of the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value or the Fair Market Rental, as the case may be, of the relevant Units, such value may at Lessee's option, be determined in accordance with the foregoing definitions by a qualified independent Appraiser; provided, however, that if Lessee does not elect on or before such date to go forward with such a determination of Fair Market Value or Fair Market Rental, the notice of exercise of its purchase option or renewal option shall be deemed to have been withdrawn, and it shall have no further liability with respect thereto. The term "Appraiser" shall mean such independent appraiser as the Lessor may select with the approval of the Lessee, or failing such approved selection, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee. Upon payment of the purchase price in respect of Units that are purchased by the Lessee, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties and on an "as is, where is" basis) for such Units such as will transfer to the Lessee such title to such Units, free and clear of all liens, charges, security interests and other encumbrances created or caused by the Lessor or the Secured Party or other assignee of the Lessor, or resulting from claims against Lessor or the Secured Party or other assignee of the Lessor not arising out of the ownership or leasing of the Equipment or assumed by Lessee hereunder.

If, after the fifth year of the term hereof, the Lessor wishes to sell the Equipment and/or the Lease, the Lessor shall furnish to the Lessee a copy of a bona fide offer from a third-party purchaser, which Lessor is willing to accept, setting forth all the terms of the proposed purchase. For a period of 30 days from Lessor's furnishing of a copy of the offer, the Lessee shall have a right of first refusal to purchase the Equipment and/or Lease on the same terms set forth in the third-party purchase offer. If Lessee shall fail

to exercise its right of first refusal by written notice to the Lessor within the 30-day period, then the Lessor shall be free to transfer the Equipment and/or Lease to the party that submitted the purchase offer, on the terms set forth in the offer.

In the event that the Lessor's interest in the Lease and/or the Equipment has been transferred to a wholly-owned subsidiary of the Lessor or of Bank of New York Company, Inc. and such transferee shall at any time cease to be such a wholly-owned subsidiary, then the Lessee may, at any time within 6 months after receiving notice of such transfer, elect to purchase all the Units then covered by this Lease at a purchase price equal to the greater of Fair Market Value (as defined above) or the Casualty Value on the next succeeding Basic Rent payment date. The Lessee shall give the Lessor written notice of such election. If the Lessor and the Lessee have been unable to agree on the Fair Market Value within 30 days of the date of such notice, then Fair Market Value shall be determined as provided above. When Fair Market Value has been so determined, the Lessor shall execute and deliver its bill of sale as provided above, and the Lessee shall pay the purchase price as provided above, along with the Basic Rent payment that would have been due on the next payment date (prorated according to the number of days actually covered).

SECTION 14: Return of Equipment Upon Expiration of Term.

(A) Upon the expiration or termination of this Lease or any extension hereof, the Lessee, at its own expense (except as limited by paragraph (c) of this Section), will transport, insure through the date of return and return the Equipment to the Lessor at such point or points on railroad lines within the continental United States, excluding Alaska, as Lessor shall designate in writing. The Equipment shall be returned to the Lessor in at least as good operating order, repair and condition as that in which the Lessee is obligated to maintain the Equipment pursuant to Section 9 hereof and shall be suitable for use in interchange in accordance with the Interchange Rules of the Association of American Railroads.

(B) If Lessor so requests or if Lessor fails to appoint a place of return as provided in the foregoing subsection, then the Lessee will permit the Lessor to store any or all Units of Equipment, at Lessee's expense, on such storage tracks, in no more than three locations as the Lessee may select for a period not exceeding 90 days for each Unit of Equipment. If the Lessee shall request the Lessor's approval of the selected storage locations, the Lessor shall not unreasonably withhold such approval. 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 broker of such Unit of Equipment, to inspect the same during normal business hours and upon reasonable notice, telephonic or otherwise; provided, however, that the Lessee shall not be liable, except in the case of negligence, gross negligence or wilful misconduct of the Lessee for

any loss or damage to such Unit or for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The delivery, storage and transporting of the Units of Equipment as hereinbefore provided are of the essence of this Lease. 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 disassemble, deliver, store and transport the Units of Equipment.

(C) Upon the expiration of the storage period provided in the immediately preceding paragraph, the Lessee shall transport, insure and return the Equipment to the Lessor as provided in paragraph (A) of this Section, subject to the following limitations:

- (i) If the Lessor shall have given its approval to the storage locations chosen by the Lessee, then the Lessor shall reimburse the Lessee for the cost of transporting any Unit to its final point of return to the extent that such costs exceed the cost of delivery to a point of return (along the same route) 500 track miles from the storage location; and
- (ii) If the Lessor fails to give written designation of a point of return for any Unit within 90 days of the expiration or termination of this Lease or any extension hereof, the Lessee's obligation with respect to such Unit shall terminate at the end of such 90-day period, and the Lessee shall not be liable for any insurance or storage charges thereafter.

SECTION 15: Filing. Prior to the delivery and acceptance of the first Unit of Equipment hereunder, the Lessee will cause this Lease and the Security Agreement to be duly filed, registered or recorded with the Interstate Commerce Commission in accordance with U.S.C. 49 §11303 of the Interstate Commerce Act and in such other places within or without the United States as the Lessor or the Secured Party may reasonably request and will furnish the Lessor and the Secured Party proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister or rerecord whenever required) any and all further instruments reasonably requested by the Lessor or the Secured Party for the purpose of protecting the Lessor's title to, or the Secured Party's security interest in, any Unit of Equipment to the satisfaction of the Lessor's or the Secured Party's counsel or for the purpose of carrying out the intentions of this Lease, and in connection with any such action, will deliver to the Lessor and the Secured Party proof of such filings. The Lessee will pay all costs, charges and expenses incident to any such filing, refile, recording and rerecording or depositing and redepositing of any such instruments or incident to the taking of such action.

SECTION 16: Security Assignment. The Lessor may assign its interest hereunder, as provided in the Security Agreement, which assignment and creation of a lien under the Security Agreement shall not require the Lessor's written notice to the Lessee. Until further notice from the Secured Party, the Lessee will pay all sums due to the Lessor under this Lease (except sums payable pursuant to the Excepted Indemnities) to the Secured Party, at such time and in such manner as the Secured Party may direct in writing, which payments shall satisfy Lessee's obligation to the Lessor for such sums.

SECTION 17: Insurance to be Maintained.

(A) Except as provided in Section 14 hereof, Lessee will, at all times prior to the return of the Units of Equipment to the Lessor, and at its own expense, cause to be carried and maintained (i) casualty insurance in respect of the Equipment at the time subject hereto in an amount at least equal to the Casualty Value of the Equipment; (ii) public liability insurance with respect to third party personal and property damage, and the Lessee will continue to carry such insurance with such deductibles (not to exceed \$50,000 per occurrence), in such amounts (which, with respect to the above-mentioned public liability insurance, shall not be less than \$50,000,000 for any single occurrence), and for such risks as are consistent with prudent industry practice but in any event with no greater deductibles and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Equipment. The proceeds of the casualty insurance shall be payable to the Lessor, the Secured Party and the Lessee, as their interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancellation, lapse or material change in coverage to the Lessor and the Secured Party and (ii) name the Lessor and the Secured Party as additional named insureds, as their respective interests may appear, and shall provide that, in respect of the interests of the Lessor and the Secured Party in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee and shall insure the Lessor and the Secured Party regardless of any breach or violation of any warranty, declaration or condition contained in such policies (or in the application therefor or in any other document submitted to the insurer in connection therewith) by the Lessee. Prior to the first date of delivery of any Unit of Equipment pursuant to the Lease, and thereafter not less than 10 days prior to the expiration dates of the expiring policies required pursuant to this Section 17, the Lessee shall deliver to the Lessor and the Secured Party certificates of insurance issued by the insurers thereunder evidencing the insurance maintained pursuant to this Section 17; provided, however, that if the delivery of a certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the formal certificate upon receipt thereof.

(B) If the Lessor shall receive any condemnation payments with respect to any Unit suffering a Casualty Occurrence, so long as no Event of Default shall have occurred and be continuing, the Lessor shall remit such payments to the Lessee to the extent of any Casualty Value actually paid by the Lessee as a reimbursement of any Casualty Value paid by the Lessee, and any balance of such condemnation payments shall remain the property of the Lessor.

(C) The amounts received by the Lessor from time to time as proceeds of casualty insurance maintained pursuant to this Section shall be applied by the Lessor from time to time as follows:

(i) if such proceeds do not exceed \$500,000.00, and so long as no Event of Default has occurred and is continuing, the proceeds shall be delivered to the Lessee as soon as possible, for application either (a) to the repair of the Unit or Units with respect to which they were received or (b) to Lessee's payment of the Casualty Value of such Unit or Units as provided in Section 7 hereof, whichever shall be appropriate; or

(ii) if such proceeds exceed \$500,000.00, and so long as no Event of Default has occurred and is continuing, the proceeds shall be held by the Lessor or the Secured Party for application to the reimbursement of the Lessee either (a) for its expenses of repairing the Unit or Units of Equipment with respect to which they were paid or (b) for its payment of the Casualty Value of such Unit or Units as provided in Section 7 hereof, whichever shall be appropriate. Any excess of such insurance proceeds over amounts required for the purposes set forth in this subparagraph shall be delivered to the Lessee by the Lessor and the Secured Party.

(D) Any insurance proceeds with respect to a Casualty Occurrence for which the Lessee has not previously paid the Casualty Value shall, if received by the Lessor or the Secured Party, be applied to the payment of such Casualty Value and the excess of such proceeds, if any, delivered to the Lessee. Any such proceeds shall, if received by the Lessee, be held in trust for the benefit of the Lessor and the Secured Party until such Casualty Value shall have been paid.

SECTION 18: Interest on Overdue Rentals. Anything to the contrary herein notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, interest at the rate of one percent in excess of the rate charged from time to time on the Note on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser maximum rate of interest as may be legally enforceable.

SECTION 19: Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails,

first-class postage prepaid, addressed as follows:

If to the Lessor:

THE BANK OF NEW YORK
48 Wall Street
New York, New York 10015
Attention: Leasing Department

If to the Lessee:

PQ CORPORATION
Valley Forge Executive Mall
P.O. Box 840
Valley Forge, Pennsylvania 19482
Attention: Mr. Russell T. Hubler
Assistant Treasurer

If to the Secured
Party:

THE PHILADELPHIA NATIONAL BANK
P.O. Box 7618
Philadelphia, Pennsylvania 19101
Attention: Mr. Samuel Shipley

SECTION 20: Severability; Effect and Modification of Lease.
Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Equipment and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor, the Lessee and the Secured Party.

SECTION 21: Execution. This Lease may be executed in counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Lessor shall be deemed to be the original counterpart for purposes of determining which counterpart is the original chattel paper. Although this Lease is dated as of the date first set forth above for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated on the signature page hereof.

SECTION 22: Jurisdiction and Law Governing. This Lease shall be considered as having been executed in the State of New York, irrespective of its actual place of delivery and shall in all respects be governed by, and construed in accordance with, the laws of the State of New York, including all matters of construction,

validity and performance. To the extent permitted by law, the Lessee hereby irrevocably waives any immunity from jurisdiction or venue to which it might otherwise be entitled in any action arising out of or relating to the Lease which may be instituted in any such court in the States of New York or Pennsylvania, and any immunity from the execution or enforcement, in any court of general jurisdiction, of any judgment obtained in such action.

SECTION 23: Agreement for Lease Only.

The Lessor and the Lessee agree that this Lease is, and is intended to be, a true lease (and not a Lease intended as security or a lease in the nature of a security interest) for all purposes, including without limitation of the foregoing, for federal income tax purposes under Rev. Proc. 75-21, 1975-1 C.B 715, as amended, modified or supplemented, that Lessor is the owner of the Equipment, and that Lessee has no rights to the Equipment whatsoever other than under this Lease. Lessor and Lessee further agree to treat this Lease as a true lease for all purposes, including, without limitation of the foregoing, for federal income tax purposes. Lessor and Lessee further agree to take no action inconsistent with the foregoing. In particular, Lessor agrees to report the Interim Rent and Basic Rent, set forth in Section 3 hereto as rental income for federal income tax purposes, and the Lessee agrees to report such Rent as a rental expense for federal income tax purposes.

SECTION 24: Binding Effect.

Except as otherwise provided with respect to the Secured Party, the terms and provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Lessor and the Lessee have executed this Lease as of the day and date first above written.

(S E A L)

THE BANK OF NEW YORK

ATTEST:

Amelia T. Besch

By: *Robert Z. Reed*
Its Vice President

DATED: *August 11, 1982*

PQ CORPORATION

By: _____
Its

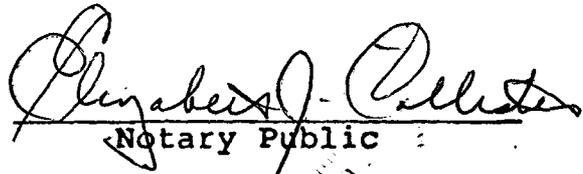
(S E A L)

DATED: _____

ATTEST:

STATE OF NEW YORK)
) SS
COUNTY OF NEW YORK)

On this 11th day of August, 1982 before me appeared Robert B. Purcell and Anne L. Doescher personally known to me to be the Vice President and Assistant Secretary of THE BANK OF NEW YORK, respectively and personally known to me to be the persons whose names are subscribed to in the foregoing instrument, and severally acknowledged that as such Vice President and Assistant Secretary they signed and delivered said instrument on behalf of said corporation and caused the corporate seal to be affixed thereto by the authority of its Board of Directors as the free and voluntary act of said corporation for the uses and purposes set forth.


Notary Public

My Commission Expires: _____

(S E A L)

ELIZABETH J. COLLISTER
Notary Public, State of New York
No. 43-4712808 Qualified in Richmond Co.
Cert. Filed in New York County
Commission Expires March 30, 1984

COMMONWEALTH OF PENNSYLVANIA)
) SS
COUNTY OF)

On this _____ day of _____, 1982 before me appeared _____ and _____ personally known to me to be the _____ and _____ of PQ CORPORATION, respectively and personally known to me to be the persons whose names are subscribed to in the foregoing instrument, and severally acknowledged that as such _____ President and Secretary they signed and delivered said instrument on behalf of said corporation and caused the corporate seal to be affixed thereto by the authority of its Board of Directors as the free and voluntary act of said corporation for the uses and purposes set forth.

Notary Public

My Commission Expires: _____

(S E A L)

validity and performance. To the extent permitted by law, the Lessee hereby irrevocably waives any immunity from jurisdiction or venue to which it might otherwise be entitled in any action arising out of or relating to the Lease which may be instituted in any such court in the States of New York or Pennsylvania, and any immunity from the execution or enforcement, in any court of general jurisdiction, of any judgment obtained in such action.

SECTION 23: Agreement for Lease Only.

The Lessor and the Lessee agree that this Lease is, and is intended to be, a true lease (and not a Lease intended as security or a lease in the nature of a security interest) for all purposes, including without limitation of the foregoing, for federal income tax purposes under Rev. Proc. 75-21, 1975-1 C.B 715, as amended, modified or supplemented, that Lessor is the owner of the Equipment, and that Lessee has no rights to the Equipment whatsoever other than under this Lease. Lessor and Lessee further agree to treat this Lease as a true lease for all purposes, including, without limitation of the foregoing, for federal income tax purposes. Lessor and Lessee further agree to take no action inconsistent with the foregoing. In particular, Lessor agrees to report the Interim Rent and Basic Rent, set forth in Section 3 hereto as rental income for federal income tax purposes, and the Lessee agrees to report such Rent as a rental expense for federal income tax purposes.

SECTION 24: Binding Effect.

Except as otherwise provided with respect to the Secured Party, the terms and provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Lessor and the Lessee have executed this Lease as of the day and date first above written.

(S E A L)

THE BANK OF NEW YORK

ATTEST:

By: _____
Its Vice President

DATED: _____

PQ CORPORATION

By: Moshe A. Abramson
Its Treasurer

DATED: 8/16/82

ATTEST:

Ernest G. Posner

**ERNEST G. POSNER
SECRETARY**

STATE OF NEW YORK)
) SS
COUNTY OF NEW YORK)

On this ___ day of _____, 1982 before me appeared _____
and _____ personally known to me to
be the _____ and _____ of
THE BANK OF NEW YORK, respectively and personally known to me to be
the persons whose
names are subscribed to in the foregoing instrument, and severally
acknowledged that as such _____
and _____ they signed and
delivered said instrument on behalf of said corporation and caused
the corporate seal to be affixed thereto by the authority of its
Board of Directors as the free and voluntary act of said corporation
for the uses and purposes set forth.

Notary Public

My Commission Expires: _____

(S E A L)

COMMONWEALTH OF PENNSYLVANIA)
) SS
COUNTY OF *Chester*)

On this 16th day of Aug., 1982 before me appeared Michael R. Imbriani and Ernest H. Posner personally known to me to be
the Treasurer and Secretary of PQ
CORPORATION, respectively and personally known to me to be the
persons whose names are subscribed to in the foregoing instrument,
and severally acknowledged that as such Treasurer President
and Secretary they signed and delivered said instrument on behalf of
said corporation and caused the corporate seal to be affixed thereto
by the authority of its Board of Directors as the free and voluntary
act of said corporation for the uses and purposes set forth.

Cora D. Barrow
Notary Public

My Commission Expires: 7/3/83

CORA D. BARROW, Notary Public
Valley Forge, Chester Co.
My Commission expires July 3, 1983



4214B/26

EXHIBIT A

EQUIPMENT DESCRIPTION LIST

<u>TYPE</u>	<u>QUANTITY</u>	<u>MANUFACTURER</u>	<u>SERIAL NUMBERS</u>	<u>BASE PURCHASE PRICE</u>
PD 5000 Hopper Cars	38	North American Car Corporation	NAHX 550233- NAHX 550270	\$73,000 (subject to adjustment per agreement)

EXHIBIT B

CERTIFICATE OF ACCEPTANCE
UNDER LEASE OF EQUIPMENT

TO: The Lessor and Secured Party, as defined in a Lease of Equipment dated as of June 30, 1982, between THE BANK OF NEW YORK, (the "Lessor") and PQ CORPORATION (the "Lessee").

I, a duly appointed inspector and authorized representative of the Lessee and of the Lessor, hereby certify that I have inspected, received, approved and accepted delivery, on behalf of the Lessee and Lessor under the Lease of Equipment of the following Units of Equipment:

Type of Equipment: Pd 5000 Hopper Cars

Manufacturer: North American Car Corporation

Place Accepted:

Date Accepted:

Number of Items:

Serial Number:

Purchase Price of Each
Item of Equipment:

I further certify that the foregoing Equipment is in good order and condition, and conforms in all material respects to the specifications applicable thereto, and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all Standards recommended by the Association of American Railroads for similar equipment and at the time of delivery to the Lessee there was plainly, distinctly, permanently and conspicuously marked upon each Unit of Equipment the following legend in letters not less than one inch in height:

"LEASED FROM THE BANK OF NEW YORK, AND SUBJECT TO A SECURITY INTEREST HELD BY THE PHILADELPHIA NATIONAL BANK, AND FILED WITH THE INTERSTATE COMMERCE COMMISSION."

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

Inspector and Authorized
Representative of Lessor and Lessee

EXHIBIT C
TO LEASE OF EQUIPMENT
SCHEDULE OF CASUALTY VALUES

The Casualty Value of any Item of Equipment payable on any Basic Rent payment date shall mean an amount equal to the percent of purchase price of such Item of Equipment set forth opposite such Basic Rent payment date in the following schedule:

<u>Basic Rent Payment Date</u>	<u>Casualty Value Expressed as a percentage of Purchase Price</u>
1. 7/1/83	114.53073
2. 1/1/84	118.03501
3. 7/1/84	117.96106
4. 1/1/85	119.74265
5. 7/1/85	118.39111
6. 1/1/86	118.35902
7. 7/1/86	115.49721
8. 1/1/87	113.50963
9. 7/1/87	108.87525
10. 1/1/88	106.23518
11. 7/1/88	101.28710
12. 1/1/89	98.59532
13. 7/1/89	98.32577
14. 1/1/90	95.47478
15. 7/1/90	94.99093
16. 1/1/91	91.99067
17. 7/1/91	91.28357
18. 1/1/92	88.14397
19. 7/1/92	87.20473
20. 1/1/93	83.93578
21. 7/1/93	82.75570
22. 1/1/94	79.36747
23. 7/1/94	77.93781
24. 1/1/95	74.44031
25. 7/1/95	72.75241
26. 1/1/96	69.14777
27. 7/1/96	67.18760
28. 1/1/97	63.46909
29. 7/1/97	61.21659
30. 1/1/98	57.37623
31. 7/1/98	54.80998
32. 1/1/99	50.83925
33. 7/1/99	47.93635
34. 1/1/00	43.82614
35. 7/1/00	40.56213
36. 1/1/01	36.30272
37. 7/1/01	32.65145
38. 1/1/02	28.23244
39. 7/1/02	24.25718
40. 1/1/03	20.00000