

No. **G-240A026**

Date AUG 28 1980

Fee \$ 50.00

ICC Washington, D. C.

(2)

New Rec. No.

850

RECORDATION NO. **12136**

AUG 28 1980 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
Washington, D. C.

Gentlemen:

Enclosed for recordation under the provisions of 49 USC 11303(a) are the original and five counterparts of an Equipment Lease dated as of August 1, 1980.

A general description of the railroad equipment covered by the enclosed document is set forth in Schedule A attached to this letter and made a part hereof.

The names and addresses of the parties are:

Lessor: The Connecticut Bank and Trust Company
One Constitution Plaza
Hartford, Connecticut 06115

Lessee: Illinois Central Gulf Railroad Company
Two Illinois Center
233 North Michigan Avenue
Chicago, Illinois 60601

The undersigned is the Lessor mentioned in the enclosed document and has knowledge of the matters set forth therein.

Please return the original and four copies of the Equipment Lease to Larry Elkins, Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Also enclosed is a check in the amount of \$50.00 covering the required recording fee.

Very truly yours,

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee

By [Signature]
Its VICE PRESIDENT

RECEIVED
AUG 28 10 43 AM '80
C.C.
OPERATION BR.
LESSOR AS-AFORESAID

Enclosures

SCHEDULE A

DESCRIPTION OF REBUILT EQUIPMENT

<u>No. of Items</u>	<u>Description of Equipment</u>	<u>Debtor Identifying Mark and Numbers</u>
10	GP-11 Locomotives	ICG 8741 through ICG 8750, both inclusive
10	SW-14 Locomotives	ICG 1439 through ICG 1448, both inclusive
13	SD-20 Locomotives	ICG 2012 through ICG 2024, both inclusive

DESCRIPTION OF EQUIPMENT PRIOR TO REBUILDING

<u>No. of Items</u>	<u>Description of Equipment</u>	<u>Debtor Identifying Mark and Numbers</u>
10	GP Locomotives	IC 8967; IC 9200; IC 9206; IC 9214; IC 9312; IC 9314; IC 9331; IC 9380; UP 108; UP 135
10	SW Locomotives	ICG 1203; ICG 1204; ICG 1234; ICG 1235; ICG 480; IC 418; IC 440; IC 405; IC 416; IC 1001
13	SD Locomotives	ICG 6303 through ICG 6305, both inclusive; ICG 6310; ICG 6315; ICG 6316; ICG 6318; ICG 6321; ICG 6324; ICG 6336; ICG 6341; ICG 6342; ICG 6347

REGISTRATION NO. 12136

AUG 28 1980 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

Matter No. 33459-9

EQUIPMENT LEASE

Dated as of August 1, 1980

Between

THE CONNECTICUT BANK AND TRUST COMPANY,
As Trustee under I.C.G. Trust No. 80-5

LESSOR

And

ILLINOIS CENTRAL GULF RAILROAD COMPANY

LESSEE

(I.C.G. Trust No. 80-5)
(33 Rebuilt Locomotives)

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Attachments to Equipment Lease:

- Schedule A - Description of Items of Equipment
- Schedule B - Certificate of Acceptance under Equipment Lease
- Schedule C - Schedule of Casualty Value

EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of August 1, 1980 is between THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, not individually but solely as trustee (the "Lessor") under a Trust Agreement dated as of August 1, 1980 (the "Trust Agreement") with Xerox Services, Inc. (the "Trustor"), and ILLINOIS CENTRAL GULF RAILROAD COMPANY, a Delaware corporation (the "Lessee").

R E C I T A L S:

A. The Lessor and the Lessee have entered into a Hulk Purchase Agreement dated as of August 1, 1980 (the "Hulk Purchase Agreement") providing for the sale of 33 used locomotives (the "Hulks") by the Lessee to the Lessor, and the Lessor and the Lessee have entered into a Reconstruction Agreement dated as of August 1, 1980 (the "Reconstruction Agreement") providing for the reconstruction by the Lessee of the Hulks into certain items of railroad equipment (collectively the "Equipment" and individually an "Item" or "Item of Equipment") described in Schedule A attached hereto and made a part hereof in accordance with the specifications (the "Specifications") referred to in the Reconstruction Agreement. Upon delivery of each Item of Equipment and the acceptance of such Item of Equipment as provided in Section 1.2 hereof, the Lessor shall lease and let such Item of Equipment to the Lessee and the Lessee shall hire such Item of Equipment from the Lessor for the rental and on and subject to the terms and conditions herein set forth.

B. The Lessee and the Lessor have entered into a Participation Agreement dated as of August 1, 1980 (the "Participation Agreement") with the Trustor, Mercantile-Safe Deposit and Trust Company, as security trustee (the "Security Trustee") and the institutional investor named in Schedule 2 thereto (the "Note Purchaser") providing a commitment of the Note Purchaser which, together with funds provided by the Trustor, will permit the Lessor to obtain the funds necessary to acquire the Hulks and reconstruct the same into the Equipment. The Trustor will commit to advance an amount equal to 27.960045% of the Total Cost (as defined in the Participation Agreement and hereinafter referred to as the "Total Cost") of each Item of Equipment and the Note Purchaser will commit to purchase the Secured Notes (the "Notes") of the Lessor in an amount equal to 72.039955% of the Total Cost of each Item of Equipment. The Participation Agreement provides that the Notes will be secured by an assignment of certain of the Lessor's right, title and interest in and to this Lease and in and to the Equipment pursuant to a Security Agreement-Trust Deed dated as of August 1, 1980 (the "Security Agreement") from the Lessor to the Security Trustee.

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease and Hire. Upon delivery of each Item of Equipment following the reconstruction thereof under the Reconstruction Agreement, the Lessee shall lease and let and the Lessor shall hire to the Lessee such Item of Equipment for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. The Lessor and the Trustor retain certain rights to inspect the Equipment prior to and during the reconstruction thereof as more fully provided in the Hulk Purchase Agreement and the Reconstruction Agreement. Upon completion of reconstruction of each Item of Equipment, the Lessor will cause each Item of Equipment to be tendered to the Lessee at the place of delivery set forth in Schedule A. Upon such tender, the Lessee will cause an inspector designated and authorized by the Lessee to inspect the same, and, if such Item of Equipment is found to be in good order, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor a Certificate of Acceptance (the "Certificate of Acceptance") in the form attached hereto as Schedule B with respect to such Item of Equipment; provided, however, that the Lessee shall not accept and the Lessor shall have no obligation to lease any Item of Equipment delivered after the Outside Delivery Date set forth in Schedule A.

1.3. Certificate of Acceptance. The Lessee's execution and delivery of a Certificate of Acceptance with respect to each Item of Equipment pursuant to Section 1.2 hereof shall conclusively establish that such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture or condition or in any other respect, and shall conclusively establish as between the Lessor and the Lessee that such Item of Equipment is in good order and condition and conforms to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to reconstructed railroad equipment of the character of the Equipment as of the date of this Lease.

SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rent for Equipment. The Lessee agrees to pay the Lessor the following rent for each Item of Equipment:

(a) Interim Rental. For each Item of Equipment, an amount per day (the "Interim Rental") equal to:

(1) 0.036111% of the Purchase Price of the Hulk which was utilized to rebuild such Item for the period, if any, from and including the Hulk Closing

Date (as defined in the Participation Agreement) to, but not including, January 1, 1981 (the "Term Lease Commencement Date"); and

(ii) 0.036111% of the Reconstruction Cost thereof for the period, if any, from and including the Equipment Closing Date (as defined in the Participation Agreement) for such Item of Equipment to, but not including, the Term Lease Commencement Date.

(b) Fixed Rental. For each Item of Equipment, 30 semiannual installments of fixed rental (the "Fixed Rental"), payable in arrears, the first 22 such installments to be each in an amount equal to 6.262627% of the Total Cost thereof and the final 8 such installments to be each in an amount equal to 3.131314% of the Total Cost thereof.

(c) Additional Rental. In addition to the foregoing rental, the Lessee agrees to pay to the Lessor as additional rental (the "Additional Rental"), an amount equal to the amounts, if any, that the Lessor is obligated to pay to the Security Trustee pursuant to Section 2.2(e) or 2.2(g) of the Participation Agreement on the date or dates payable pursuant thereto, any fees and expenses of the Lessor and the Security Trustee (other than the initial fees of the Lessor and the Security Trustee for which the Trustor is liable under Section 2.6 of the Participation Agreement), and any amounts payable under Section 2.6 of the Participation Agreement by the Lessee because the transactions contemplated by the Participation Agreement were consummated as to part, but not all, of the Items of Equipment.

2.2. Rent Payment Dates. An installment of Interim Rental for each Item of Equipment shall be due and payable on the Term Lease Commencement Date. The first installment of Fixed Rental for each Item of Equipment shall be due and payable six months following the Term Lease Commencement Date and the balance of said installments shall be payable at six-month intervals thereafter with the final such installment payable 15 years following the Term Lease Commencement Date. If any of the rent payment dates is not a business day, the rent payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Lease, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the States of Illinois, Connecticut or Maryland are authorized or required to close.

2.3. Adjustment of Rentals. The Lessee and the Lessor agree that the Fixed Rentals payable hereunder and the Casualty Value percentages set forth in Schedule C hereto will be adjusted in the event that (A) any amendment to, or change in, the Internal Revenue Code of 1954, as amended (the "Code"), the income tax

regulations thereunder or published administrative or judicial interpretations of the Code or such regulations is enacted or has an effective date on or prior to January 1, 1981, (B) the aggregate Reconstruction Cost of the Items of Equipment is more or less than 88% of the aggregate Total Cost thereof, (C) the percentage of the Total Cost of the Equipment paid by the Trustor shall be greater than 27.960045%, (D) the rate of interest payable on the Notes shall be greater than 13% per annum, (E) the Hulk Closing Date and Equipment Closing Dates and the Purchase Price or Reconstruction Cost, as the case may be, of the Hulks, or of the Equipment settled for on such dates are other than \$1,818,000 on August 7, 1980 and \$2,815,200 on August 24, 1980, September 24, 1980, October 24, 1980, November 24, 1980 and December 24, 1980, or (F) the amount paid by the Lessor and/or the Trustor pursuant to Section 2.6 of the Participation Agreement exceeds 0.95% of the Total Cost of the Equipment. Any such adjustment shall be effective as of the first Fixed Rental payment date following the event giving rise to such adjustment, and shall be made in such manner as will result, in the Trustor's reasonable judgment, in preserving for the Trustor both the after-tax rate of return, the total after-tax cash flow and the book income flow that would have been realized by the Trustor had such event not occurred, (i) based on the rates of Federal, state and local taxes on, or measured by, net income in effect from time to time, and (ii) in all other respects based on the assumptions and methods of calculation utilized by the Trustor in originally evaluating the transaction described in this Lease and related documents.

Anything in this Section 2.3 to the contrary notwithstanding, the amounts payable as installments of Fixed Rental and Casualty Values hereunder with respect to any Item of Equipment (i) shall in no event be reduced below amounts necessary to discharge that portion of the principal of and/or interest on the Notes due and payable on each rent payment date or casualty payment date under this Lease, and (ii) will be adjusted in such manner (subject to the restrictions of the preceding clause) so as to enable the Trustor to satisfy the profit and positive cash flow requirements set forth in Section 4(6) of Rev. Proc. 75-21, 1975-1 Cum. Bull. 715, as such requirements may be modified or adjusted as of the applicable rental payment date or casualty payment date. The Trustor shall furnish the Lessee and the Security Trustee prior to the effective date of any such adjustment with a notice setting forth in reasonable detail the computations and methods used in computing such adjustment.

2.4. Place and Manner of Rent Payment. The payments to be made by the Lessee under this Lease shall be made as follows:

(a) The installments of Interim Rental and Additional Rental shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 21.1 hereof; provided that in the event either the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such installment

shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer to the place designated in such notice or as otherwise designated from time to time in writing by such assignee;

(b) The portion of any installment of Fixed Rental resulting from an increase in the amount thereof, if any, which the Lessee shall be required to pay to the Lessor pursuant to any rental adjustment arrangements shall be paid in full to the Lessor by wire transfer to the principal office of the Lessor at the address provided for payments in Section 21.1 hereof;

(c) Each installment of Fixed Rental shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 21.1 hereof; provided that in the event either the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer to the place designated in such notice or as otherwise designated from time to time in writing by such assignee; and provided further that in the event such notice shall direct the Lessee to divide such installment into not more than two portions, in addition to the portion referred to in Section 2.4(b) hereof, and to pay each portion by wire transfer separately to not more than two parties, the Lessee agrees to do so;

(d) The entire amount of any payment of Casualty Value pursuant to Section 11 hereof shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address provided for payment in Section 21.1 hereof or in such other manner or to such other address as may be designated by the Lessor in writing; provided that in the event either the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such Casualty Value shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer in the manner designated in such notice or as otherwise designated from time to time in writing by such assignee;

(e) The amount of any payment owing to the Lessor or the Trustor pursuant to Sections 6, 10.2, 11.1 (with respect to public liability insurance), 20 and 21.2 hereof shall be made directly to the party to receive the same without regard to the assignment of this Lease pursuant to Section 16 hereof;

(f) The amount of any interest due in respect of the late payment of any rentals or other amounts pursuant to Section 19 hereof shall be paid to the party and in

the manner herein provided to receive said rental or other amount; and

(g) All payments other than those above specified shall be made by the Lessee directly to the party to receive the same unless any such payment has previously been made by the Lessor or its assignee, in which case the Lessee shall reimburse the Lessor or its assignee, as the case may be, directly for such payment.

The Lessee agrees that it will make payments due hereunder by wire transfer where specified above, at the opening of business of the office of the transferring bank on the due date of such payment of Federal or otherwise immediately available funds to the party to whom such payment is to be made, and where not so specified, such payment shall be made by check of the Lessee drawn on a bank located in the continental United States and mailed to the party to receive the same at the address herein provided or at such other address as the Lessee shall have been previously advised of in writing.

2.5. Net Lease. This Lease is a net lease and the Lessee's obligation to pay all Interim Rental, Additional Rental and Fixed Rental and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of rent or reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16 hereof; 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 or destruction of or requisitioning of the Equipment by condemnation or otherwise, the prohibition of Lessee's use of the Equipment other than by the Lessor's breach of the Lessee's right of quiet enjoyment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment has been returned to the possession of the Lessor (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). 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 Items of Equipment except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 16 hereof for any reason whatsoever.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Sections 11, 14 and 18 hereof, shall terminate 15 years following the Term Lease Commencement Date provided for in Section 2.1(a) hereof.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its road number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting colors upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"Leased from a Bank or Trust Company,
as Trustee, and Subject to a Security
Interest recorded with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Lessee will not change the road number of any Item of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which statement previously shall have been delivered to the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia 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 the right of the Lessee to use the Equipment under this Lease.

SECTION 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR, THE LESSOR EXPRESSLY DISCLAIMING ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. 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 and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the original manufacturer thereof, provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Item of Equipment or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment 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 foregoing matters.

SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor, in both its individual

and fiduciary capacities, the Trustor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchaser) and their respective successors and assigns from and against:

(a) any and all loss or damage to the Equipment, usual wear and tear excepted; and

(b) except for amounts which the Trustor has specifically agreed to pay pursuant to Sections 2.1 and 2.6 of the Participation Agreement, and in the latter event only to the extent they are not to be reimbursed by the Lessee, any claim, cause of action, damages, liability, cost or expense (including, without limitation, counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them (i) relating to any Item of Equipment or any part thereof, including, without limitation, the construction, purchase, delivery, acceptance, rejection, ownership, sale, leasing, return or storage of any Item of Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessee or any indemnified party), (ii) by reason or as the result of any act or omission (whether negligent or otherwise) of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent, trademark or copyright infringements, or (iv) as a result of claims for negligence (whether active or passive, except in the case of a wrongful act on the part of the party claiming such indemnity), or strict liability in tort.

The amount the Lessee shall be required to pay with respect to any of its obligations under this Section 6.1 shall include a payment to the indemnified party sufficient to restore such party to the same position, after considering the effect of such payment on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that the indemnified party would have been in had the liability or expense indemnified against not been incurred. The indemnities and assumptions of liabilities set forth in this Section 6.1 do not guarantee to any party at any time a residual value in the Equipment nor do they guarantee the payment of the Notes or any interest accrued thereon.

6.2. Continuation of Indemnities and Assumptions.

The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumptions of liability shall not apply in respect of any matters referred to in subsection (a) of Section 6.1 or clause (i), (ii), (iii) (as to modifications made after the expiration of this Lease) or clause (iv) of

subsection (b) of Section 6.1, occurring after the termination of this Lease, except for any such matters attributable to, arising or accruing during the term of this Lease, and except for any such matters occurring after the expiration or earlier termination hereof arising in connection with the Lessee's assembling, delivering, storing or transporting of the Equipment as provided in Section 13 or 15, as the case may be. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of such claim or liability. The Lessee shall promptly notify the Lessor of any matter which may give rise to a claim or liability against the Lessor or any assignee thereof pursuant to Section 16 hereof. The Lessor shall have the right, but not the obligation, to defend any such matter, subject to the Lessee's approval of the manner in which such defense is made, which approval shall not be unreasonably withheld.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitation, the rules of the United States Department of Transportation, the Interstate Commerce Commission and, to the extent applicable, the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time) (the "Interchange Rules") with respect to the use and maintenance of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, additions, replacements and/or modifications at its own expense and title thereto shall be immediately vested in the Lessor; provided, however, that Lessee may, in good faith and by appropriate legal proceedings, contest the validity or application of any such law, regulation, requirement or rule in any reasonable manner which does not in the opinion of the Lessor and Security Trustee adversely affect the property rights, or interests of the Lessor and Security Trustee in the Equipment or hereunder.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order and repair, and in the condition received by the Lessee from the Lessor, ordinary wear and tear excepted, and to the extent applicable, suitable for use in interchange in accordance with the Interchange Rules. Except as required by the provisions of Section 7 hereof, the Lessee shall not modify any Item of Equipment unless (i) such modifications, additions or improvements shall comply with all of the requirements set forth in Rev. Proc. 79-48 for advance ruling purposes (and Lessee agrees to provide upon Lessor's request reasonable evidence of such compliance), and (ii) the Lessee shall have

obtained the prior written authority and approval of the Lessor and any assignee pursuant to Section 16 hereof. The Lessor and the Note Purchaser agree to consent to any modifications that do not reduce the value or materially change the character of such Item of Equipment. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 7 hereof or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 8 or which meet the requirements of clause (1) of the preceding sentence shall in each case be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. The Lessee shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. Title to any such readily removable additions or improvements shall remain with the Lessee. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment, the Lessee may, or at the request of the Lessor, the Lessee shall, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon any Item of Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease and any other liens or charges which arise by virtue of claims against, through or under any other party other than the Lessor or the Trustor, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not, in the Lessor's opinion, affect or endanger the title and interest of the Lessor or the security interest or other rights of any assignee under Section 16 hereof in and to the Equipment. The Lessee's obligations under this Section 9 shall survive the expiration or earlier termination of this Lease.

SECTION 10. FILING; PAYMENT OF STATE AND LOCAL TAXES.

10.1. Filing. Prior to the delivery and acceptance of the first Item 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 49 U.S.C. §11303 and in such other places within or without the United States as the Lessor or the Security Trustee may reasonably request and will furnish the Lessor and the Security Trustee 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 required by law or reasonably requested by the Lessor or the Security Trustee, for the purpose of protecting the Lessor's title to, or the Security Trustee's security interest in, any Item of Equipment to the satisfaction of the Lessor's or the Security Trustee's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor and the Security Trustee proof of such filings and an opinion of the Lessee's counsel reasonably satisfactory to the Lessor and the Security Trustee that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and rerecording or depositing and redepositing of any such instruments or incident to the taking of such action.

10.2. Payment of State and Local Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor, in both its individual and fiduciary capacities, the Trustor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchaser) and their respective successors and assigns (the "Indemnitees") for collection or other charges and will be free of expense to the Indemnitees with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax and, to the extent that the Indemnitee receives credit therefor against its United States Federal income tax liability, any foreign income tax payable by the Indemnitee in consequence of the receipt of payments provided herein and other than the aggregate of all (i) state and city income taxes and franchise taxes measured by net income, (ii) state and city taxes computed on a basis other than net income and imposed as a direct alternative to any taxes described in clause (i) above, and (iii) any other state and city taxes, to the extent such taxes are actually credited against taxes which are described in clause (i) above and which are otherwise payable to such states and cities, except any taxes described in clause (i), (ii) or (iii) above, which are in substitution for or relieve the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, documentary stamp taxes, or license fees and any charges, fines or penalties in connection therewith (hereinafter called "Impositions") now or hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title or return or other disposition of any Items of Equipment under the terms hereof or the Security Agreement, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item or for the use or operation thereof or upon the earnings arising therefrom or upon an Indemnitee solely by reason of the ownership thereof and will keep at all times all and every part of such Item free and clear of all

Impositions which might in any way affect the title of the Lessor or the security interest of the Security Trustee or result in a lien upon any such Item; provided, however, that the Lessee shall be under no obligation to pay any Impositions so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the reasonable opinion of the Indemnitee, adversely affect the title, property or rights of the Lessor hereunder or the security interest of the Security Trustee. If any Impositions shall have been charged or levied against any Indemnitee directly and paid by such Indemnitee the Lessee shall reimburse such Indemnitee on presentation of an invoice therefor.

In the event any reports with regard to Impositions are required to be made on the basis of individual Items or otherwise, the Lessee will, where permitted to do so under applicable rules or regulations, make and timely file such reports in such manner as to show the interest of the Lessor and the Security Trustee in the Items as shall be satisfactory to the Lessor and the Security Trustee or, where not so permitted, will notify the Lessor and the Security Trustee of such requirement and will assist in preparation of such reports by the Lessor or the Security Trustee in such manner as shall be satisfactory to the Lessor and the Security Trustee.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any Impositions, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

The Lessee shall, whenever reasonably requested by any Indemnitee, submit to such Indemnitee evidence satisfactory to such Indemnitee of the Lessee's performance of its duties under this Section 10.2. The Lessee shall also furnish promptly upon request such data as any Indemnitee reasonably may require to permit such Indemnitee's compliance with the requirements of taxing jurisdictions, including, but not limited to, information relating to the use of any Item or Items outside the United States of America.

The parties agree that the Lessee shall include the Equipment in the ad valorem tax returns to be filed by the Lessee in the applicable states or localities and that no Indemnitee shall include the Equipment in any ad valorem or other similar tax returns filed by it in such states or localities.

The amount which the Lessee shall be required to pay to any Indemnitee with respect to any Imposition which is subject to indemnification under this Section 10.2 shall be an amount sufficient to restore such Indemnitee to the same net after-tax rate of return and after-tax cash flow and book income flow, after considering the effect of such payment and such Imposition on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that such

Indemnitee would have had or been in had such Imposition not been imposed.

SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

11.1. Insurance. The Lessee agrees that it will at all times during the term of this Lease and during any return and storage period hereunder and at its own cost and expense keep each Item of Equipment insured against loss by fire, collision, derailment, and explosion and with extended coverage and against such other risks as are customarily insured against by railroad companies at not less than the Casualty Value of such Item of Equipment as of the next following rental payment date and will maintain general public liability insurance with respect to the Equipment against damage because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit maintained by the Lessee with respect to similar equipment which it owns or leases. Any such property insurance may have deductible provisions to no greater extent than are customary with railroad companies in the aggregate in any single occurrence, and any public liability insurance may have deductible provisions to no greater extent than are customary with railroad companies in the aggregate in any single occurrence. All such insurance shall cover the interest of the Lessor, in both its individual and fiduciary capacities, the Trustor and any assignee of the Lessor (including, without limitation the Security Trustee) and the Lessee, as their interests may appear, in the Equipment or, as the case may be, shall protect the Lessor, in both its individual and fiduciary capacities, the Trustor and any assignee of the Lessor (including, without limitation, the Security Trustee) and the Lessee, in respect of risks arising out of the condition, maintenance, use, ownership and operation of the Equipment and shall provide that proceeds, if any, in respect to the Equipment shall be payable to the Lessee, the Lessor, the Trustor and the Security Trustee as their respective interests may appear. All policies of insurance maintained pursuant to this Section shall provide therein or by endorsement that prior written notice of expiration, cancellation or modification shall be given to the Security Trustee, the Trustor and the Lessor. Such written notice shall be given not less than 30 days prior to such expiration, cancellation or modification (or such advance period as is consistent with insurance industry practices). As to the interest of the Lessor, the Trustor or the Security Trustee therein, no such insurance shall be invalidated by any foreclosure or other remedial proceedings or notices thereof relating to the Equipment or any interest therein nor by any change in the title or ownership of the Equipment or any interest therein or with respect thereto or by the use or operation of the Equipment for purposes more hazardous than is permitted by such policy. The Lessee warrants and affirms that it will satisfy all obligations under such policy necessary to keep such insurance in full force and effect. No such policy shall require co-insurance. Upon receipt by the Lessee of notice of the assignment of this Lease and certain of the rents and other sums payable hereunder pursuant

to Section 16 hereof, the Lessee shall cause the property insurance on the Equipment to provide that the proceeds, if any, shall be payable to the Security Trustee under a standard mortgage loss payable clause satisfactory to the Lessor, the Trustor, the Lessee, the Security Trustee and the Note Purchaser. To the extent permitted by the terms of applicable insurance coverage, any loss under the property insurance policy referred to above shall be adjusted with the Lessee, provided that no such adjustment shall constitute a waiver of the respective rights of the named insureds under such insurance policy. The Lessee shall from time to time and in any event at least annually furnish the Lessor, the Trustor and the Security Trustee with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal policy or policies shall furnish certificates or binders evidencing such renewal as soon as practicable but in no event later than 90 days after the expiration date of the original policy or policies. All insurance provided for in this Section shall be effective with insurance companies or insurers having all necessary power and authority to furnish the required coverage.

The proceeds of any property insurance received by the Lessor or the Security Trustee shall be held by such party until the repairs referred to in clause (1) below are made as specified therein or payment of the Casualty Value is made, but in no case longer than one year and will be paid either (i) to the Lessee within 30 days following receipt by the Security Trustee of a written application signed by the Lessee for payment of, or to reimburse the Lessee for payment of, the costs of repairing or restoring the Item of Equipment which has been lost or damaged (which application shall be accompanied by reasonably satisfactory evidence of such cost and the completion of such repair or restoration), or (ii) if this Lease is terminated with respect to such Item of Equipment because of a Casualty Occurrence and the Lessee has paid the Casualty Value due as a result thereof, such proceeds shall be applied in the manner as is provided for the disposition of insurance proceeds in Section 11.5 hereof; provided that, if the Lessee is at the time of the application in default in the payment of any other liability of the Lessee to the Lessor hereunder, such proceeds may be applied against such liability.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged or permanently rendered unfit for use from any cause whatsoever during the term of this Lease or thereafter while such Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or title or use thereof shall be requisitioned or taken by any governmental authority under the power of eminent domain or otherwise during the term of this Lease for a stated period which exceeds the then remaining term of this Lease, or the Lessee is unable to return any Item of Equipment at the end of the term of the Lease because such Item has been requisitioned or taken by any governmental authority (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge

of such Casualty Occurrence) inform the Lessor and any assignee thereof pursuant to Section 16 hereof in regard thereto (including, without limitation, the Security Trustee) and shall pay the Casualty Value (as defined in Section 11.6 hereof) of such Item in accordance with the terms of Section 11.3 hereof.

11.3. Sum Payable for Casualty Loss. The Lessee, on the Term Lease Commencement Date or next succeeding Fixed Rental payment date or the last day of any storage period pursuant to Section 13 hereof, as the case may be, following its determination that a Casualty Occurrence has taken place with respect to any Item of Equipment, shall pay to the Lessor (i) any rentals or other sums due on or prior to such date then remaining unpaid, plus (ii) a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment.

11.4. Rent Termination. Upon (and not until) payment of all sums required to be paid pursuant to Section 11.3 hereof in respect of any Item or Items of Equipment, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.5. Application of Certain Payments; Disposition of Equipment. Any payments received at any time by the Lessor or the Lessee from any insurer, or from any governmental authority or other third party, with respect to a Casualty Occurrence to an Item or Items of Equipment will be applied as follows:

(a) first, so much of such payments as shall not exceed the Casualty Value required to be paid pursuant to Section 11.3 hereof (plus any indemnification payment required to be made by the Lessee in connection with such Casualty Occurrence pursuant to Section 6 hereof) shall be applied in reduction of the Lessee's obligation to pay such Casualty Value (plus any such indemnification payment), if not already paid by the Lessee, or, if already paid by the Lessee, shall be applied to reimburse the Lessee for its payment of such Casualty Value (plus any such indemnification payment); and

(b) second, the balance, if any, of such payments, (i) in the case of payments from an insurer, shall be paid over to, or retained by, the Lessee (provided that no Event of Default or event that with the passing of time or the giving of notice, or both, would constitute an Event of Default shall then have occurred and be continuing) and, (ii) in the case of payments from a governmental authority or other third party, shall be paid over to, or retained by, the Lessor.

The Lessee may, at its option, request an appraisal of any Item of Equipment which has been the subject of a Casualty Occurrence, such request to be made in a writing delivered to the

Lessor not later than the date on which the Lessee shall have paid the Casualty Value and any other sums due in respect of such Item pursuant to Section 11.3 hereof. The Lessor shall, within 30 days after its receipt of such a request, appoint a qualified independent appraiser to make, at the sole expense of the Lessee, an appraisal of the value of such Item (such appraised value to be the higher of the value of such Item as a whole or the aggregate value of the component parts of such Item) and to report his determination of such value to the Lessor and the Lessee within 15 days after his appointment. If such appraised value shall be less than or equal to the Casualty Value of such Item, no further payments shall be due in respect of such Item and title to such Item shall, within 15 days after the date of such appraisal, be transferred to the Lessee or its nominee by the Lessor (provided that no Event of Default or event that with the passing of time or the giving of notice, or both, would constitute an Event of Default shall then have occurred and be continuing). If such appraised value shall be greater than the Casualty Value of such Item, the Lessee may elect to retain such Item by giving to the Lessor written notice of such election, in which event the Lessee shall pay to the Lessor, within 15 days after the date of such appraisal, an amount equal to the amount by which such appraised value exceeds such Casualty Value. Upon payment of such excess by the Lessee, no further payments shall be due in respect of such Item and title thereto shall, on the date of such payment, be transferred to the Lessee or its nominee by the Lessor (provided that no Event of Default or event that with the passing of time or the giving of notice, or both, would constitute an Event of Default shall then have occurred and be continuing). If the Lessee does not request an appraisal of such Item, or if it does not elect to retain such Item as aforesaid, then, in either such case, the Lessee shall, as agent for the Lessor, use its best efforts to sell such Item as soon as it is able to do so, such sale to be made to a third party or parties at the best cash price obtainable. The proceeds of such sale up to an amount equal to the Casualty Value of such Item shall be applied in the manner set forth in clause (a) of this Section 11.5, and any proceeds in excess of such Casualty Value shall be paid to the Lessor. Any transfer of title by the Lessor to the Lessee, and any sale to a third party by the Lessee as agent for the Lessor, shall be on an "as is", "where is" basis without representation or warranty, express or implied (including, without limitation, those representations and warranties expressly disclaimed in Section 5 hereof). Upon the Lessee's request, the Lessor shall provide the Lessee with a bill of sale or any other documents reasonably necessary for the Lessee's sale or other disposition of any such Item suffering a Casualty Occurrence. The Lessee shall be liable for the payment of any sales taxes or other similar expenses payable in connection with any transfer of title to it under this Section 11.5.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of

the Total Cost (as defined in the Participation Agreement) of such Item of Equipment set forth in the Schedule of Casualty Value attached hereto as Schedule C (as such schedule may be modified pursuant to Section 2.3 hereof) opposite such date of payment.

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and all rental installments and other sums due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessor and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay all installments of rental and other sums shall continue for the duration of such requisitioning or taking. So long as no Event of Default, or event which with the lapse of time or giving of notice, or both, shall have occurred and be continuing, the Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before the first May 1 which occurs more than four months following the date of this Lease and on each May 1 thereafter, the Lessee will furnish to the Lessor, the Trustor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchaser) an accurate statement, as of the preceding December 31 (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the 12 months ending on such December 31 (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor, the Trustor and any assignee of the Lessor pursuant to Section 16

hereof (including, without limitation, the Security Trustee and the Note Purchaser) each shall have the right, at their respective sole cost and expense, by their respective authorized representatives, to inspect the Equipment and the Lessee's records with respect thereto, at such time as shall be reasonably necessary to confirm the existence and proper maintenance of the Equipment during the continuance of this Lease.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 180 days and transport the same at any time within such 180-day period to any reasonable place on any railroad lines operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Equipment 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 to so assemble, deliver, store and transport the Equipment. All amounts earned in respect of the Equipment after the date of expiration of this Lease after deduction of the reasonable expenses of the Lessee incident thereto, shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the expiration of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the higher of (i) an amount equal to 0.03889% of the Total Cost of such Item of Equipment, or (ii) the Fair Rental Value (determined in the manner provided in Section 18 hereof) for such Item for each such day exceeds the amount, if any, received by the Lessor (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Default shall be made in the payment of any part of the rental or Casualty Value provided in Section 2 or 11 hereof and such default shall continue for five business days;

(b) The Lessee shall make or permit any assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof not permitted by this Lease, and the Lessee shall, in the case of any such assignment or transfer of possession of the Equipment made without its knowledge or consent, fail to secure a reassignment or retransfer of the Equipment within thirty days after receipt of written notice from Lessor so demanding;

(c) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement, the Hulk Purchase Agreement or the Reconstruction Agreement, and such default shall continue for 30 days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied;

(d) Any representation or warranty made by the Lessee herein or in the Participation Agreement, the Hulk Purchase Agreement or the Reconstruction Agreement or in any statement or certificate furnished to the Lessor, the Security Trustee or the Note Purchaser pursuant to or in connection with this Lease, the Participation Agreement, the Hulk Purchase Agreement or the Reconstruction Agreement is untrue in any material respect as of the date of issuance or making thereof;

(e) Any proceedings 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, under any bankruptcy or insolvency law 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), 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 shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed

for the Lessee or for the property of the Lessee in connection with any such proceeding in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) A petition for reorganization under Chapter 11 of the Bankruptcy Reform Act of 1978, as now constituted or as hereafter 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 shall not have been duly assumed in writing, pursuant to a court order or decree, by such trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor and/or, in the event this Lease shall be assigned to an assignee pursuant to Section 16 hereof, such assignee, 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, including reasonable attorneys' fees and such additional amounts as are sufficient to restore the Trustor to the same net after-tax rate of return, after-tax cash flow and book income flow, after considering the effect of the receipt of such damages and amounts on its United States Federal income tax and state and local taxes or franchise taxes based on net income, that the Trustor would have realized or would have been in had such breach not occurred; and/or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the 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 Equipment may be located and take possession of all or any of the Items of Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or

its successors or assigns, to use such Items for any purpose whatever, but the Lessor shall nevertheless have a right to recover from the Lessee any and all amounts 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 (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Item of Equipment which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then Fair Rental Value of such Item for such period, such present worth to be computed in each case on a basis of an 8% per annum discount, compounded semi-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or (y) an amount equal to the excess if any of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the Fair Market Value thereof at such time; provided, however, that in the event the Lessor shall have sold any Item of Equipment, 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 (i) with respect thereto may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination of such Item of Equipment under the Lease over the net proceeds of such sale, and (ii) any damages and expenses, other than for a failure to pay rental, in addition thereto, including reasonable attorneys' fees, which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, including without limitation the repayment in full of any costs and expenses necessary to be expended in repairing or modifying any Item in order to cause it to be in compliance with all maintenance and regulatory standards imposed by this Lease.

For purposes of this Section 14.2, the Fair Rental Value and Fair Market Value for any Item of Equipment shall be determined in the manner provided for appraisal arrangements in Section 18.2 hereof; provided that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination

shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item.

14.3. Cumulative Remedies. 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 mandatory requirements of law, now or hereafter in effect, which might limit or modify any of 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 of any right to assert any offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf in connection with the lease of the Equipment.

14.4. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any 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.

14.5. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor, the Security Trustee and the Note Purchaser, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after 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 14.5 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 officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. If the Lessor or any assignee of the Lessor pursuant to Section 16 hereof shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such reasonable storage place on the Lessee's lines of railroad as the Lessor may designate or, in the absence of such designation, as the Lessee may select; provided that, in the event the Lessor shall designate storage tracks which are then unavailable either

because such tracks are then being used to store equipment owned by a third party pursuant to a contractual obligation of the Lessee to provide storage therefor or because the storage of the Items of Equipment on such tracks would materially impair the ability of the Lessee to meet its obligations to perform services as a common carrier to the public, then the Lessee agrees to so store the Items of Equipment upon such other storage tracks as shall then be so available and nearest to such storage tracks designated by the Lessor;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on the Lessee's lines of railroad without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor and during such period of storage the Lessee shall continue to maintain all insurance required by Section 11.1 hereof; and

(c) Transport the Equipment to any place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as the Lessor may direct in writing.

All amounts earned in respect of the Equipment after the date of termination of this Lease shall belong to the Lessor or in the event this Lease has been assigned pursuant to Section 16 hereof, to such assignee, and, if received by the Lessee, shall be promptly turned over to the Lessor, or in the case of such assignment, to such assignee. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 10 days after the termination of this Lease, the Lessee shall, in addition, pay to the Lessor or, in the case of such assignment, to such assignee for each day thereafter an amount equal to the amount, if any, by which the higher of (i) an amount equal to 0.03889% of the Total Cost of such Item of Equipment, or (ii) the Fair Rental Value (determined in the manner provided in Section 18 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor or such assignee (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment 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 assemble, deliver, store and transport the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, 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 Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and all other sums due or to become due hereunder may be assigned 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 except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title or the failure of the Lessor to afford the right of quiet enjoyment to the Lessee, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of such assignee, the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, (ii) said assignee shall, if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of said assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor (except those rights, privileges and remedies relating to amounts payable to the Lessor or the Trustor pursuant to Sections 6, 10.2, 11.1 [with respect to public liability insurance], 20 and 21.2 hereof which shall remain enforceable by the Lessor and/or the Trustor), but if no Event of Default or event which with the lapse of time or giving of notice, or both, would constitute an Event of Default, shall have occurred and be continuing, said assignee, the Lessor and the Trustor may each exercise their respective rights, privileges and remedies stated in this Lease to be provided for their respective benefits, and (iii) all obligations of the Lessor to the Lessee under this Lease shall be and remain enforceable by the Lessee against, and only against, the Lessor.

It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the rents and other sums due and to become due hereunder shall by the express terms granting and conveying the same be subject to the interest of the Lessee in and to the Equipment.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment. So long as no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The Lessee shall not, without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, enter into any sublease with respect to, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof. No assignment or sublease entered into by the Lessee hereunder shall relieve the Lessee of any of its liabilities or obligations hereunder which shall be and remain those of a principal and not a surety.

17.2. Use and Possession in Railroad Operations. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly) or by any corporation, a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessee, or upon lines of railroad over which the Lessee or such corporation has trackage or other operating rights or over which equipment of the Lessee is regularly operated pursuant to contract or 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. Notwithstanding the foregoing, the Lessee shall at no time throughout the term of this Lease assign or permit the assignment of any Item of Equipment to service (including, without limitation, the regular operation or maintenance thereof) outside the continental United States, and the Lessee agrees that any use of the Equipment outside the continental United States shall be de minimus.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or

substantially all of the lines of railroad of the Lessee, provided that such assignees, successors or transferees shall have duly assumed the obligations of the Lessee hereunder and that they will not, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, be in default under any provision of this Lease and that such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

SECTION 18. RENEWAL OPTION; DUTY OF FIRST OFFER.

18.1. Renewal Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than 180 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Items of Equipment then covered by this Lease for an additional two-year period commencing on the scheduled expiration of such original term. Such extended term of the Lease shall be on the same terms and conditions as are contained in this Lease, except (x) as to the amount of rentals, which shall be at a "Fair Market Rental" payable, in arrears, in semiannual payments on the months and days such rentals were payable for the Items in each year of the original term and (y) that the Casualty Value of each Item on the first day of such extended term shall be equal to the "Fair Market Value" of such Item on such date and thereafter such Casualty Value shall be reduced on a straight line basis over the estimated remaining useful life of such Item, all as determined by the procedures hereinafter established.

18.2. Appraisal Procedure. Fair Market Rental, Fair Market Value and estimated remaining useful life shall be agreed upon by the Lessor and the Lessee or determined as provided in the next paragraph, on the basis of (and shall be equal in amount to) the rental or sale value which would obtain in an arm's length transaction between an informed and willing lessee or vendee, as the case may be (other than a lessee currently in possession), and an informed and willing lessor or vendor, as the case may be, under no compulsion to lease or sell, as the case may be, and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental or sale value but there shall be excluded any rental value or sale value attributable to additions, modifications and improvements which the Lessee is entitled to remove pursuant to Section 8 hereof, provided, however, that Fair Market Rental shall be determined as provided in this sentence on the basis of the term and other terms and conditions of the lease being considered; and provided, further, that, in the determination of Fair Market Value, the existence of the Lessee's right of first refusal pursuant to this Section 18 shall be disregarded. Fair Market Rental, Fair Market Value and estimated remaining useful life of the Items shall be determined upon the assumption that the Items shall have been maintained in accordance with the provisions of Section 8 hereof.

If after 45 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, as provided in Section 18.1, the Lessor and the Lessee are unable to agree upon a determination of Fair Market Rental, Fair Market Value or estimated remaining useful life, as the case may be, such Fair Market Rental or Fair Market Value or such remaining useful life, as the case may be, shall be determined in accordance with the following procedure: If either party to such determination shall have given written notice to the other requesting determination of Fair Market Rental, Fair Market Value or estimated remaining useful life, 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 10 business days after such notice is given, each party shall appoint an independent appraiser within 15 business days after such notice is given, and the two appraisers so appointed shall, within 10 business days after such appointment, appoint a third independent appraiser. If no such third appraiser is appointed within the time permitted, the parties shall immediately 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 procedures shall be instructed to determine Fair Market Rental, Fair Market Value or estimated remaining useful life, as the case may be, of the Items subject to the proposed extended lease term within 30 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of a 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. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental, Fair Market Value and estimated remaining useful life, unless these are agreed upon by the Lessor and the Lessee as provided for herein, and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor unless the Lessee does not take the Equipment, in which event such expenses shall be borne solely by the Lessee.

18.3. Duty of First Offer. Provided that this Lease has not been earlier terminated and provided that the Lessee is not in default hereunder, in the event that the Lessor, acting in its sole discretion, decides to sell any one or more Items of the Equipment to a third party or parties at the expiration of the original term or (if this Lease is extended in accordance with

the terms hereof) the extended term of this Lease, the Lessor shall, prior to the expiration of such term, give written notice to the Lessee of its intention to sell such Items. The Lessee shall have the right, exercisable as hereinafter provided, to purchase for cash all (but not less than all) of the Items that the Lessor has decided to sell, at a price equal to the Fair Market Value of such Items, determined in accordance with Section 18.2 hereof. The Lessee may exercise such right to purchase by delivering to the Lessor, within five business days after its receipt of the aforesaid notice from the Lessor, a writing specifying a date of purchase, which date shall be on or before the later of (i) 15 days after the date of delivery of such writing to the Lessor, or (ii) 90 days after the expiration of such term (provided, however, tht the Lessee may state in such writing that its acceptance of the Lessor's offer is subject to ratification by its Board of Directors within 15 days after the date thereof and that, if said Board does not ratify such acceptance within such 15-day period, the Lessee will so advise the Lessor, promptly and in writing, and the Lessee will thereupon be excused from any obligation to purchase, and will have no further right to purchase, any such Items hereunder and the Lessee shall pay the full cost of the appraisal). In the event that the Lessee notifies the Lessor of its election to purchase such Items, this Lease (including the obligation to pay rent hereunder) shall continue in effect, on the same terms and conditions as are set forth herein, until the specified date of purchase.

18.4. Delivery of Equipment. Unless the Lessee has elected to accept an offer to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 18, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the extended term, as the case may be, in accordance with Section 13 hereof.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNT PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding any nonpayment of rent due hereunder, or any expenditure of amounts by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay also an amount equal to interest at the rate of 14% per annum (or the highest lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. FEDERAL INCOME TAX INDEMNIFICATION.

(a) Loss of Assumed Tax Benefits. If:

(1) the Trustor is not allowed for its calendar 1980 taxable year an investment credit under Section 38 and

related sections of the Code with respect to any one or more of the Items of Equipment of not less than 10% of the Reconstruction Cost with respect to such Item or Items; or

(ii) the Trustor is not allowed the benefit of current deductions for depreciation, commencing with the first day of the second half of its calendar 1980 taxable year, on any one or more of the Items under Section 167(a) of the Code (x) computed pursuant to the asset depreciation range system of Section 167(m) of the Code and Section 1.167(a)-11 of the income tax regulations, (y) computed on the basis (A) of a net salvage value of zero, (B) that the basis of such Item or Items under Section 167(g) of the Code is not less than the Total Cost with respect to such Item or Items, and (C) that such Item or Items have an asset depreciation period of 12 years, and (z) computed (A) pursuant to the double declining balance method of depreciation, switching to the sum of the years-digits method of depreciation, with respect to the Reconstruction Cost, and (B) pursuant to the 150% declining balance method of depreciation, switching to the straight line method of depreciation, with respect to the Hulk Purchase Price; or

(iii) the Trustor is not allowed the benefit of current deductions under Section 163 of the Code for interest payable on the Notes; or

(iv) any investment credits or deductions for depreciation with respect to any one or more of the Items are recaptured in whole or in part pursuant to Section 47 or Section 1245 of the Code or any successor provision or provisions thereto; or

(v) any amount includible in the gross income of the Trustor with respect to any one or more of the Items or any deduction allowable to the Trustor with respect to such Item or Items or with respect to any interest payable on the Notes shall be treated as derived from, or allocable to, sources outside the United States; or

(vi) any amount is included, at any time prior to the end of the term of this Lease (including any renewal terms), in the gross income of the Trustor as a result of any repair, improvement, alteration, modification or addition (including replacement of parts) to such Item or Items made by the Lessee (herein called a "Capital Expenditure");

(any such failure to allow, such recapture, such treatment of income or deductions as derived from or allocable to sources without the United States, or such inclusion in gross income as a result of a Capital Expenditure being herein called a "Loss"), then, subject to paragraph (b) of this Section 20, the Lessee shall pay to the Trustor as an indemnity the amount or amounts set forth in paragraph (d) of this Section 20 at the time or times set forth therein.

(b) Indemnification and Exceptions. Except as hereinafter provided, the Lessee shall be required to indemnify the Trustor with respect to any Loss that results from:

(i) a Loss described in clause (i) or (ii) of paragraph (a) of this Section 20, if such Loss results from the use of an Item by any person so as to preclude the "original use of such property" within the meaning of Section 48(b) or Section 167(c)(2) of the Code from commencing with the Trustor;

(ii) the failure of an amount not less than the Reconstruction Cost of any Item or Items to qualify for the investment credit and double declining balance depreciation in the hands of the Trustor;

(iii) the Lessee's use of an Item or Items in such a manner as to result in a Loss described in clause (i), (ii), (iv) or (v) of paragraph (a) of this Section 20;

(iv) a Capital Expenditure; or

(v) any act, or failure to act, at any time, by the Lessee or any of its officers, employees or agents (including, without limitation, any act, or failure to act, in respect of the income tax returns of the Lessee insofar as they relate to the transaction contemplated by this Lease and related documents, it being understood that the Lessee will not take, or fail to take, any action if such act or failure to act is inconsistent with the Trustor being treated as the owner, and the Lessee being treated as the lessee, of the Equipment for Federal, state and local income tax purposes).

However, the Lessee shall not be required to indemnify the Trustor with respect to any Loss that results solely and directly from:

(i) a Casualty Occurrence, if the Lessee has made all payments with respect thereto that are required to be made pursuant to Section 11 hereof;

(ii) a voluntary disposition by the Trustor of its beneficial interest in any Item or Items, if such disposition (x) shall be the direct cause of such Loss with respect to such Item or Items, (y) shall occur at a time while no Event of Default (and no event that, with the lapse of time or the giving of notice, or both, would constitute an Event of Default) has occurred and is continuing, and (z) shall not be pursuant to the written consent of the Lessee;

(iii) the failure of the Trustor to claim in a timely and proper manner on its income tax returns for the appropriate years any credits or deductions contemplated by paragraph (a) of this Section 20 unless the Trustor shall have been advised by independent tax counsel selected by the Trustor and approved by the Lessee (which approval shall not be unreasonably withheld), that there is no reasonable basis for claiming any such deduction or credit;

(iv) the failure of the Trustor to have sufficient Federal income tax liability against which to apply such credits or sufficient income to benefit from such depreciation or interest deductions;

(v) the failure of the Trustor to take timely action in contesting a claim made by the Internal Revenue Service, but only if such action is required by the terms of paragraph (c) of this Section 20;

(vi) any amendment to, or change in, the Code, the income tax regulations thereunder or published administrative or judicial interpretations of the Code or such regulations, which change or amendment is not enacted and does not have an effective date on or prior to January 1, 1981; or

(vii) any act, or failure to act, at any time, by the Trustor or any of its officers, employees or agents, which is inconsistent with the Trustor's obligations under the Trust Agreement and the Participation Agreement, except at a time when an Event of Default (or an event that, with the lapse of time or the giving of notice, or both, would constitute an Event of Default) has occurred and is continuing.

(c) Proceedings. If at the conclusion of any audit the Trustor receives a preliminary or "30-day" letter from the Internal Revenue Service proposing an adjustment in any Item that, if agreed to by the Trustor, would result in a Loss with respect to which the Lessee would be required to indemnify the Trustor pursuant to this Section 20, the Trustor shall promptly notify the Lessee of such proposed adjustment and shall furnish to the Lessee a statement describing such Loss in reasonable detail. If requested to do so by the Lessee, within 20 days after receipt of such statement, the Trustor shall promptly request from independent tax counsel selected by the Trustor and approved by the Lessee (which approval shall not be unreasonably withheld) (the "Special Tax Counsel"), their opinion as to whether there is a meritorious basis for contesting such proposed adjustment. If the opinion is to the effect that there is a meritorious basis for contesting such proposed adjustment, the Trustor shall 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 Trustor in its sole discretion. Upon the conclusion of such administrative proceedings, if any, the Trustor shall promptly notify the Lessee of the final adjustment proposed by the Internal Revenue Service and, if the Trustor receives within 30 days after such notice a written request to do so from the Lessee, the Trustor shall contest such final adjustment in a court of competent jurisdiction. If the Lessee requests the Trustor to appeal the decision of such a court or of any intermediate appellate court, the Trustor shall promptly request from Special Tax Counsel their opinion as to whether there is a meritorious basis for appealing such decision. If the opinion is to the effect that there is a meritorious basis for appealing such decision, the Trustor shall appeal such decision. The Trustor, in its sole discretion, shall determine the initial and any appellate court and 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 Trustor shall not be required to take any action as set forth in this paragraph (c) unless and until the Lessee shall have agreed to indemnify the Trustor in a manner satisfactory to it for any Loss that results from an adverse determination with respect to the proposed adjustment and shall have agreed to pay to the Trustor on demand all reasonable out-of-pocket costs and expenses, including without limitation attorneys' fees and expenses, incurred by it in connection with the taking of such action. If the Trustor elects to pay taxes based on a proposed deficiency and sue for a refund thereof, and if the proposed deficiency would be a Loss with respect to which the Lessee would be required to indemnify the Trustor, then the Lessee shall pay to the Trustor on demand the amount of such taxes and interest thereon which the Trustor shall have paid, and if the Trustor subsequently receives a refund of all or any part of such taxes and interest, it shall promptly pay to the Lessee the amount of such refunded taxes and interest plus the amount of any interest received by the Trustor from the United States Government with respect to such refunded taxes and interest. Notwithstanding anything to the contrary contained in this paragraph (c), the Trustor may at any time, whether before or after commencing to take any action with respect to a proposed adjustment, decline to take any further action with respect thereto, provided that, if the Lessee has properly requested such action pursuant to this paragraph (c), the Trustor notifies the Lessee that it waives its right to any indemnity with respect to any Loss that will result from acceptance of such proposed adjustment.

(d) Amount and Time of Payment of Indemnity. The amount of indemnity payable by the Lessee pursuant to this Section 20 with respect to a Loss shall be such amount as will result, in the Trustor's reasonable judgment, in preserving for the Trustor the after-tax rate of return, the after-tax cash flow and book income flow that would have been realized by the Trustor if such Loss had not occurred, (i) based on the rates of Federal, state and

local taxes on, based on, or measured by, net income in effect from time to time, and (ii) in all other respects based on the assumptions and methods of calculation utilized by the Trustor in originally evaluating the transaction described in this Lease and related documents. The amount of such payment of indemnity shall reflect (A) the amount of interest, additions to tax and penalties payable by the Trustor with respect to such Loss, (B) the amount of Federal, state and local taxes on, based on, or measured by, net income (at the rates in effect from time to time), interest, additions to tax and penalties incurred by the Trustor as a result of the receipt of such indemnity payment, and (C) any amount paid by the Lessee to the Trustor pursuant to the next-to-last sentence of paragraph (c) of this Section 20 which is not repaid by the Trustor to the Lessee pursuant to such sentence. The Trustor shall furnish the Lessee with a notice setting forth in reasonable detail the computations and methods used in computing such amount of indemnity.

In determining the amount of indemnity payable by the Lessee pursuant to this Section 20 with respect to a Loss which results from a Capital Expenditure, there shall be taken into account any investment credits and depreciation deductions to which the Trustor is or expects to be entitled with respect to such Capital Expenditure in the year in which the Capital Expenditure is made and in subsequent years, but if any such investment credits or depreciation deductions are subsequently disallowed, recaptured or treated as derived from or allocable to sources outside the United States, such disallowance, recapture or allocation shall be treated as a Loss described in clause (i), (ii), (iv) or (v) of paragraph (a) of this Section 20, as the case may be.

The Lessee's obligation to pay any indemnity payable pursuant to this Section 20 with respect to a Loss shall become unconditional (1) in the case of a Loss that is required to be reflected on a tax return of the Trustor, 30 days after the date such tax return is filed; (2) in the case of a Loss that results from a proposed adjustment of the Internal Revenue Service that is not contested pursuant to paragraph (c) of this Section, 30 days after the Lessee's receipt of the statement referred to in the first sentence of paragraph (c) of this Section; and (3) in the case of a Loss that results from a proposed adjustment of the Internal Revenue Service that is contested pursuant to paragraph (c) of this Section, 30 days after the day on which such contest is finally concluded.

The Lessee shall pay to the Trustor a lump sum indemnity at the time its obligation to pay indemnity pursuant to this Section 20 becomes unconditional, (A) with respect to a Loss described in clause (i) of paragraph (a) of this Section 20, and (B) with respect to any other Loss, if the Lessee's obligation to pay indemnity pursuant to this Section 20 becomes unconditional on or after the termination of this Lease. Any other indemnity payable pursuant to this Section 20 shall be structured as level future rent increases, and the Lessee shall commence payment of

If to the Trustor: Xerox Services, Inc.
Two Pickwick Plaza
Greenwich, Connecticut 06830
Attention: Vice President Finance/
Administration

If to the Security
Trustee: Mercantile-Safe Deposit and Trust
Company
Two Hopkins Plaza
P. O. Box 2258
Baltimore, Maryland 21203
Attention: Corporate Trust Department

If to the Lessee: Illinois Central Gulf Railroad Company
Two Illinois Center
233 North Michigan Avenue
Chicago, Illinois 60601
Attention: Treasurer

If to the Note
Purchaser: At the address provided therefor in
Schedule 2 to the Participation
Agreement

or at such other address as such party or person shall hereafter
furnish to such other parties in writing.

21.2. Right of Lessor to Perform. If the Lessee shall fail to comply with any of its covenants herein contained, either the Lessor, the Trustor or, in the case of an assignment by the Lessor pursuant to Section 16 hereof, the assignee thereunder (including, without limitation, the Security Trustee and the Note Purchaser) may, but shall not be obligated to, make advances to perform the same and to take all such action as may be necessary to obtain such performance. Any payment so made by any such party and all cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the party making the same upon demand as additional rent hereunder, with interest thereon at the lesser of (a) the rate of 14% per annum or (b) the maximum rate allowed by law.

21.3. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

21.4. Law Governing. This Lease shall be construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

21.5. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

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

21.7. Limitations of Liability. It is expressly understood and agreed by and between the Lessor and the Lessee and their respective successors and assigns that this Lease is executed by The Connecticut Bank and Trust Company, not individually or personally but solely as Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Trustee, that each and all of the representations, warranties, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by The Connecticut Bank and Trust Company or the Trustor, or for the purpose or with the intention of binding The Connecticut Bank and Trust Company or the Trustor personally, but are made and intended for the purpose of binding only the Trust Estate as defined in the Trust Agreement, that this Lease is executed and delivered by The Connecticut Bank and Trust Company solely in the exercise of the powers expressly conferred upon The Connecticut Bank and Trust Company as trustee under the Trust Agreement, that actions taken by the Lessor pursuant to its obligations hereunder may, in certain instances, be taken by the Lessor only upon specific authority of the Trustor, that nothing herein contained shall be construed as creating any liability of The Connecticut Bank and Trust Company or the Trustor, individually or personally, or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of, The Connecticut Bank and Trust Company or the Trustor, to perform any covenant either express or implied contained herein, all such liability, if any, being expressly waived by the Lessee, and that so far as The Connecticut Bank and Trust Company or the Trustor, individually or personally is concerned, the Lessee and any person claiming by, through or under the Lessee shall look solely to the Trust Estate as defined in the Trust Agreement for the performance of any obligation under this Lease; provided that nothing in this Section 21.7 shall be construed to limit in scope or substance those representations and warranties, if any, of The Connecticut Bank and Trust

Company made expressly in its individual capacity set forth in the Participation Agreement and the Security Agreement. The term "Lessor" as used in this Lease shall include any trustee succeeding The Connecticut Bank and Trust Company as Trustee under the Trust Agreement or the Trustor if the trust created thereby is revoked. Any obligation of the Lessor hereunder may be performed by the Trustor, and any such performance shall not be construed as revocation of the trust created by the Trust Agreement. Nothing contained in this Lease shall restrict the operation of the provisions of the Trust Agreement with respect to its revocation or the resignation or removal of the Trustee thereunder.

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

[CORPORATE SEAL]

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee under I.C.G.
Trust No. 80-5

ATTEST:

By

Its Authorized Officer

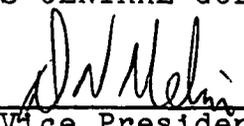
Corporate Trust Officer

[CORPORATE SEAL]

ILLINOIS CENTRAL GULF RAILROAD COMPANY

ATTEST:

By



Its Vice President



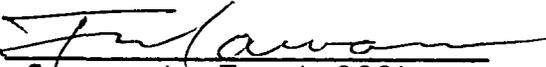
Assistant Secretary

Company made expressly in its individual capacity set forth in the Participation Agreement and the Security Agreement. The term "Lessor" as used in this Lease shall include any trustee succeeding The Connecticut Bank and Trust Company as Trustee under the Trust Agreement or the Trustor if the trust created thereby is revoked. Any obligation of the Lessor hereunder may be performed by the Trustor, and any such performance shall not be construed as revocation of the trust created by the Trust Agreement. Nothing contained in this Lease shall restrict the operation of the provisions of the Trust Agreement with respect to its revocation or the resignation or removal of the Trustee thereunder.

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

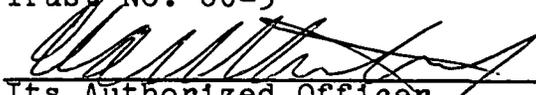
[CORPORATE SEAL]

ATTEST:


Corporate Trust Officer

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee under I.C.G.
Trust No. 80-5

By


Its Authorized Officer

[CORPORATE SEAL]

ATTEST:

Secretary

ILLINOIS CENTRAL GULF RAILROAD COMPANY

By

Its Vice President

STATE OF CONNECTICUT)
) SS
COUNTY OF HARTFORD)

On this ____ day of August, 1980, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is the an Authorized Officer of THE CONNECTICUT BANK AND TRUST 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.

Notary Public

[NOTARIAL SEAL]

My commission expires:

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 25TH day of August, 1980, before me personally appeared D.N. MELIN, to me personally known, who being by me duly sworn, says that he is a Vice President of ILLINOIS CENTRAL GULF 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.

Robert H. Hughes
Notary Public

[NOTARIAL SEAL]

My commission expires: **NOV 23 1980**

DESCRIPTION OF ITEMS OF EQUIPMENT

Term Lease Commencement Date: January 1, 1981
Outside Delivery Date: December 28, 1980
Place of Delivery: Paducah, Kentucky
Description and Mark and
Number of Reconstructed Items
of Equipment: See Annex 1 to this Schedule A

(I.C.G. Trust No. 80-5)

SCHEDULE A
(to Equipment Lease)

DESCRIPTION OF EQUIPMENT FOLLOWING REBUILDING

10	GP-11	Locomotives marked and numbered ICG 8741 through ICG 8750, both inclusive
10	SW-14	Locomotives marked and numbered ICG 1439 through ICG 1448, both inclusive
13	SD-20	Locomotives marked and numbered ICG 2012 through ICG 2024, both inclusive

CERTIFICATE OF ACCEPTANCE
UNDER EQUIPMENT LEASE

TO: The Connecticut Bank and Trust Company,
as Trustee under I.C.G. Trust No. 80-5
(the "Lessor")

I, a duly appointed and authorized representative of ILLINOIS CENTRAL GULF RAILROAD COMPANY (the "Lessee") under the Equipment Lease dated as of August 1, 1980 between the Lessor and the Lessee, do hereby certify that I have inspected, received, approved and accepted delivery under the Lease of the following Items of Equipment:

TYPE OF EQUIPMENT:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

MARKED AND NUMBERED:

I do further certify that the foregoing Items of Equipment are in good order and condition, and conform to the specifications applicable thereto, that the Lessee has no knowledge of any defect in any of the foregoing Items of Equipment with respect to design, manufacture or condition or in any other respect, and that each Item has been labeled by means of a plate or a stencil printed in contrasting colors upon each side of the Item in letters not less than one inch in height as follows:

"Leased from a Bank or Trust Company,
as Trustee, and Subject to a Security
Interest Recorded with the I.C.C."

The execution of this Certificate will in no way relieve or decrease the responsibility of the Seller or Rebuilder (as defined in the Participation Agreement) for any warranties it has made with respect to the Equipment.

Dated: _____, 1980

Inspector and Authorized
Representative of the Lessee

(I.C.G. Trust No. 80-5)

SCHEDULE B
(to Equipment Lease)

SCHEDULE OF CASUALTY VALUE

The Casualty Value for an Item of Equipment payable on the Term Lease Commencement Date or any Fixed Rental payment date thereafter shall mean an amount equal to the percent of the Total Cost of such Item set forth opposite such date in the following schedule (as such amount may be increased pursuant to Annex 1 to this Schedule C):

<u>Term Lease Commencement Date or date of Fixed Rental Payment on which Casualty Value is Paid</u>	<u>Percentage of Total Cost Payable as Casualty Value</u>
Term Lease Commencement Date	*
July 1, 1981	94.2687%
January 1, 1982	94.8503%
July 1, 1982	94.0951%
January 1, 1983	94.1994%
July 1, 1983	93.2715%
January 1, 1984	92.6881%
July 1, 1984	89.3134%
January 1, 1985	88.0176%
July 1, 1985	85.9801%
January 1, 1986	84.0068%
July 1, 1986	80.5383%
January 1, 1987	77.9242%
July 1, 1987	73.8712%
January 1, 1988	70.6547%
July 1, 1988	66.2624%
January 1, 1989	62.4961%
July 1, 1989	58.6378%
January 1, 1990	54.3887%
July 1, 1990	49.2461%
January 1, 1991	44.5988%
July 1, 1991	40.2765%
January 1, 1992	35.3366%
July 1, 1992	34.0951%
January 1, 1993	32.3211%
July 1, 1993	30.0918%
January 1, 1994	28.3568%
July 1, 1994	26.9766%
January 1, 1995	24.9567%
July 1, 1995	22.2725%
January 1, 1996 (and assuming no renewal, during any storage period)	20.0000%

(I.C.G. Trust No. 80-5)

The percentages set forth in Schedule C have been computed without regard to recapture of the Investment Credit provided for in Section 38 and related sections of the Internal Revenue Code of 1954, as amended. Consequently, the Casualty Value of any Item of Equipment suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the date of delivery and acceptance of such Item shall be increased by an amount equal to the applicable percentage of the Total Cost set forth below:

<u>Anniversary of Delivery and Acceptance</u>	<u>Percentage of Total Cost</u>
Third	16.400319%
Fifth	10.933546%
Seventh	5.466773%