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CONDITIONAL SALE AGREEMENT

Dated as of April 15, 1976

between

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
as Agent,

and

HARTFORD NATIONAL BANK AND TRUST COMPANY,  
as Trustee under a Trust Agreement dated  
as of October 24, 1975, with Wells Fargo  
Transport Leasing Corporation

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CONDITIONAL SALE AGREEMENT dated as of April 15, 1976, between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent under a Finance Agreement dated as of April 15, 1976 (hereinafter called the Vendor), and HARTFORD NATIONAL BANK AND TRUST COMPANY, as trustee under a Trust Agreement dated as of October 24, 1975 (said Trust Agreement being hereinafter called the Trust Agreement and said bank so acting, and any successor trustee under the Trust Agreement, being hereinafter called the Vendee), with Wells Fargo Transport Leasing Corporation (hereinafter called the Beneficiary).

WHEREAS the Vendee has acquired the railroad equipment described in Annex A hereto (hereinafter called the Equipment) and is leasing the Equipment to Chicago and Illinois Western Railroad Company (hereinafter, in its capacity as Lessee, called the Lessee) pursuant to a Lease of Railroad Equipment dated as of October 24, 1975, in the form annexed hereto as Annex B (hereinafter called the Lease); and

WHEREAS the Vendor is acting as agent for certain investors (hereinafter called the Investors) pursuant to the Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement), among the Vendor and the parties named in Schedule A thereto;

WHEREAS as an inducement to the Vendee to enter into the Lease and to lease the Equipment to the Lessee and as an inducement to the Investors to invest in the Conditional Sale Indebtedness, ILLINOIS CENTRAL GULF RAILROAD COMPANY (hereinafter called the Guarantor) has guaranteed to the Vendee and to the Vendor, acting on behalf of the Investors, the due and punctual payment by the Lessee of all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease due and to be due under the Lease in respect of the Equipment thereunder, and the due and punctual performance of all other obligations of the Lessee under the Lease, pursuant to a Guaranty Agreement dated as of October 24, 1975, in the form annexed hereto as Annex C (hereinafter called the Guaranty Agreement);

WHEREAS the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title and interest of the Vendee in and to the Lease, pursuant to an Assignment of

Lease and Agreement dated as of the date hereof in substantially the form annexed hereto as Annex D (hereinafter called the Lease Assignment);

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

ARTICLE 1. Conveyance; Grant of Security Title.  
The Vendee hereby conveys, sells, assigns, transfers and sets over unto the Vendor, its successors and assigns, security title in and to each unit of Equipment, subject to the payment by the Vendor of that portion of the Purchase Price (as defined in Article 4 hereof) of the Equipment which shall be payable by the Vendor pursuant to Article 4 hereof.

ARTICLE 2. Representations and Warranties. The Vendee hereby:

(a) represents and warrants to the Vendor, its successors and assigns, that this Agreement and the Lease were duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Vendor, the Guarantor and the Lessee, as the case may be, this Agreement and the Lease are, in so far as the Vendee is concerned, legal, valid and existing agreements binding upon the Vendee in accordance with their terms and that they are now in force without amendment thereto;

(b) represents and warrants that the Vendee has legal title to each unit of Equipment and good and lawful right to grant security title in each unit of Equipment to the Vendor and that title to each unit of Equipment is free from all claims, liens, security interests and encumbrances of any nature except as created by or permitted under this Agreement, including the rights of the Lessee under the Lease and except for claims, liens, security interests and encumbrances which the Lessee is obligated to discharge under the Lease;

(c) represents and warrants that it has not created or taken any action which could result in the creation of any encumbrance (other than this

Agreement and the Lease) upon or with respect to any unit of the Equipment and that the units of the Equipment are free of any lien, charge, security interest or other encumbrance resulting from claims against the Vendee unrelated to its ownership of the Equipment; and

(d) agrees that it will from time to time and at all times, at the request of the Vendor or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Vendor or intended so to be.

ARTICLE 3. Conditions to Acquisition of Security Title. The Vendor, on the Closing Date (as defined in Article 4 hereof), shall pay to the Vendee (or to such other person as the Vendee may instruct and direct the Vendor in writing) an amount equal to the portion of the Purchase Price of the Equipment which, under the terms of said Article 4, is payable by the Vendor, provided that there shall have been delivered to the Vendor at least two business days prior to the Closing Date the following documents, in form and substance satisfactory to it and to its special counsel hereinafter mentioned, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill of sale from the Vendee to the Vendor granting to the Vendor security title to the Equipment, warranting to the Vendor that, at the time of delivery of such bill of sale, the Vendee had legal title to the Equipment and good and lawful right to grant such security title and that the title of the Vendee to such units was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor hereunder, encumbrances permitted hereunder, including the rights of the Lessee under the Lease and except for claims, liens, security interests and encumbrances which the Lessee is obligated to discharge under the Lease, and covenanting to defend the title to the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such bill of sale;

(b) each document delivered to the Vendee pursuant to § 2 and/or § 15 of the Lease;

(c) a certificate of an Officer of the Lessee, dated as of the Closing Date, to the effect that (i) each unit of Equipment is in good order and repair and in the possession of the Lessee and (ii) no Event of Default or event which with the giving of notice or lapse of time could constitute an Event of Default has occurred and is continuing under the Lease;

(d) an opinion of Messrs. Cadwalader, Wickersham & Taft, who are acting as special counsel for the Vendor and the Investors named in the Finance Agreement first mentioned above (hereinafter called the Finance Agreement), dated as of the Closing Date, stating that (i) the Finance Agreement, assuming due authorization, execution and delivery by said Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) this Agreement has been duly authorized, executed and delivered by the respective parties hereto and is a legal, valid and binding instrument, (iii) security title to the units of the Equipment is validly vested in the Vendor, (iv) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement or this Agreement, or if any such authority is necessary, it has been obtained, (v) this Agreement has been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Vendor in any state of the United States of America or in the District of Columbia and (vi) registration of this Agreement or the certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933; and such opinion shall also cover such other matters as may reasonably be requested by the Vendor or such Investors;

(e) an opinion of Messrs. Robinson, Robinson & Cole, who are acting as counsel for the Vendee, dated as of such Closing Date, to the effect set forth in clause (iii) of subparagraph (d) above and that this Agreement and the Lease have been duly authorized, executed and

delivered by the Vendee and, assuming due authorization, execution and delivery by the other parties thereto, are legal and valid instruments binding upon the Vendee; and

(f) an opinion of counsel for the Lessee and the Guarantor, dated as of the Closing Date and addressed to the Vendee as well as the Vendor, to the effect set forth in § 15 of the Lease.

In giving the opinions specified in subparagraphs (d), (e) and (f) of this Article, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by general references to limitations as to enforceability of remedies and to other limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in said subparagraph (d), counsel may rely (i) as to authorization, execution and delivery by the Vendee of the documents executed by the Vendee and title to the Equipment at the time of delivery of the bill of sale with respect thereto, on the opinion of counsel for the Vendee and (ii) to the extent appropriate, as to any matter governed by the law of any jurisdiction other than New York or the United States, on the opinion of counsel for the Vendee or the opinion of counsel for the Lessee and the Guarantor as to such matter. In giving the opinions specified in said subparagraph (e), counsel may rely, to the extent appropriate, as to any matter governed by the law of any jurisdiction other than Connecticut or the United States, on the opinion of counsel for the Lessee and the Guarantor as to such matter.

The obligation of the Vendor hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Vendor having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available to make such payment. The Vendor shall not be obligated to make any above-mentioned payment at any time after the commencement of any proceedings specified in clause (c) or (d) of Article 16 hereof or if an event of default, or any event which with the lapse of time and/or demand provided for herein would constitute an event of default, shall have occurred and be continuing hereunder. In the event that the Vendor shall not make any such payment, the Vendor shall assign to the Vendee, without recourse to the Vendor, all

right, title and interest of the Vendor in and to the units of the Equipment with respect to which payment has not been made by the Vendor.

In accordance with the first sentence of this Article 3, the Vendee hereby instructs and directs the Vendor to pay the portion of the Purchase Price payable by the Vendor pursuant to Article 4 hereof directly to the Beneficiary.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex A hereto. The Vendee has paid to the Lessee, in its prior capacity as owner of the Equipment, such base price or prices in the aggregate amount of \$5,727,272.73. The term "Purchase Price" as used herein shall mean an amount equal to the aggregate base price so paid.

On the Closing Date the Vendor shall pay to the Vendee, in accordance with Article 3 hereof, an amount equal to 70% of the aggregate Purchase Price. The term "Closing Date" with respect to the payment by the Vendor of such portion of the Purchase Price as aforesaid shall mean April 22, 1976, or such later date, not later than May 30, 1976, as may be agreed to by the Vendor and the Vendee (such later date being herein called the Cut-Off Date). The Vendee shall present or cause to be presented to the Vendor at least two business days prior to the Closing Date copies of the Certificate or Certificates of Acceptance for the Equipment. The Vendee shall give written notice of the Closing Date to the Vendor at least six business days prior thereto. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, Hartford, Connecticut, or Baltimore, Maryland, are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the portion of the Purchase Price of the Equipment furnished by the Vendor on the Closing Date (herein called the Conditional Sale Indebtedness) in 174 monthly instalments, payable on the twenty-fourth day of each month, commencing May 24, 1976, to and including October 24, 1990 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness

from time to time outstanding shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9-1/4% per annum and such interest shall be payable, to the extent accrued, on the initial Payment Date, and on each Payment Date thereafter. The instalments of principal and interest payable on each Payment Date shall be substantially equal and the aggregate of such instalments of principal will amortize 100% of the Conditional Sale Indebtedness. The Vendee will cause to be furnished to the Vendor promptly after the Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

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

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 11-1/4% per annum.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof), but not limiting the effect of Article 23 hereof, it is understood and agreed by the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have indefeasibly received sufficient "income or proceeds from the Equipment" to make such payments. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution,

validity, sufficiency or enforceability of the Lease in so far as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the Vendor's rights under the Lease and Lease Assignment against the Lessee and the Equipment and to the Vendor's rights under the Guaranty Agreement against the Guarantor. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 16 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental (other than rental payable by reason of § 17 of the Lease) and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the Lease (other than § 17 thereof) and (b) any and all payment or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments due and payable under this Agreement on the date such amounts were required to be paid pursuant to the Lease; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by

the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Subject to the rights of the Lessee set forth in Article 12 hereof, nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder or to proceed against the Lessee under the Lease or the Guarantor under the Guaranty Agreement. Notwithstanding anything to the contrary contained in Articles 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph. Anything in the foregoing provisions of this paragraph to the contrary notwithstanding, the indemnities of the Lessee to the Vendee, as lessor, and to the Vendor, as assignee of the Lease, contained in the Lease constitute the sole and exclusive agreement of the Lessee as to indemnification.

ARTICLE 5. Security Interest in the Equipment.

The security interest in the Equipment hereby granted to the Vendor shall remain with the Vendor until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full Conditional Sale Indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute an instrument or instruments for the

Equipment releasing its security interest therein to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument or instruments to the Vendee at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any moneys paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes or certification, registration or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement, the Lease or the Assignment or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms of this Agreement, the Lease or the Assignment (all such expenses, taxes, certification, registrations and license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Vendee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein, and from and against which the Vendee agrees to indemnify, protect, defend, save and keep harmless on an after-tax basis the Vendor. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor or the holders of interests in the Conditional Sale Indebtedness by reason of the Vendor's security title thereto and any impositions upon or on account of the transactions contemplated by this Agreement or the instruments or agreements referred to herein or contemplated

thereby, and will keep at all times all and every part of the Equipment free and clear of all impositions that might in any way affect the security title of the Vendor in and to the Equipment or its interests or rights under this Agreement; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the title, interest or rights of the Vendor hereunder. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor, the Vendee shall reimburse the Vendor on presentation of an invoice therefor with interest thereon at a rate equal to 11-1/4%. The Vendor agrees that if, in the opinion of independent tax counsel selected by the Vendor and acceptable to the Vendee (and whose fees and expenses shall be paid by the Vendee), a bona fide claim exists for a refund of all or a portion of any imposition in respect of which the Vendee has made payment to the Vendor, the Vendor shall, upon request and at the expense of the Vendee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Vendor shall not be obligated to take any such legal or other appropriate action unless the Vendee shall first have indemnified the Vendor for all liabilities and expenses which may be entailed therein and shall have furnished the Vendee with such reasonable security therefor as may be requested. The Vendee shall be entitled to the proceeds of the successful prosecution of any such claim to the extent of payments or reimbursement made by the Vendee pursuant to this Article 6. Anything in the foregoing provisions of this paragraph to the contrary notwithstanding, the indemnities of the Lessee to the Vendee, as lessor, and to the Vendor, as assignee of the Lease, contained in the Lease constitute the sole and exclusive agreement of the Lessee as to indemnification.

ARTICLE 7. Maintenance; Casualty Occurrences; Insurance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good order and repair.

In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, or, in the opinion of the Vendee or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation

or otherwise (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it or the Lessee shall have determined that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of principal and interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each instalment, the Conditional Sale Indebtedness and the Vendee will promptly cause to be furnished to the Vendor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor may request, calculated as provided in the third paragraph of Article 4 hereof.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of the Equipment made by the Vendee shall be deemed to be a payment on each unit of

the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

The Vendee, at all times prior to the payment in full of the indebtedness evidenced hereby, together with interest and all other payments required hereby, will cause to be carried and maintained physical damage and liability insurance covering the units of the Equipment in such amounts and in such form as is commonly maintained on comparable equipment by companies similarly situated to the Lessee. Such insurance policy or policies shall provide that all losses thereunder will be adjusted with the Lessee, the Vendee or the Vendor and will be payable to the Lessee, the Vendee and the Vendor as their respective interests shall appear.

Any insurance proceeds or condemnation payments received by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Vendee to the Vendor in respect of Casualty Occurrences pursuant to the second paragraph of this Article, if such insurance proceeds or condemnation payments are received on or prior to the Casualty Payment Date; provided, however, that such insurance proceeds or condemnation payments shall thereupon be paid to the Vendee or the Lessee as their interests may appear. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence at any other time, the Vendor shall pay such insurance proceeds or condemnation payments to the Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Assignment of Lease. The Vendee, concurrently with the execution and delivery of this Agreement, is assigning to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title and interest of the Vendee in and to the Lease, pursuant to the Lease Assignment; it being understood, however, that the Vendee shall remain liable to perform its obligations under the Lease and that the Vendor shall not become liable for the performance of such obligations by reason of such assignment. The Vendee agrees that the

"income and proceeds from the Equipment" (as defined in Article 4 hereof) received by the Vendor may be applied by the Vendor to discharge the obligations of the Vendee hereunder and the Vendor agrees to pay to the Vendee (or to the order of the Vendee at such address as the Vendee may specify in writing) any moneys paid to the Vendor under the Lease not constituting "income and proceeds from the Equipment".

ARTICLE 9. Reports and Inspections. On or before March 31 in each year, commencing with the year 1977, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or are then withdrawn from use pending such repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 10 hereof have been preserved or replaced.

ARTICLE 10. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road numbers of the Lessee as set forth in Annex B hereto, or, in the case of Equipment not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings that may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be

changed except in accordance with a statement of the new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership.

ARTICLE 11. Compliance With Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment), with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the

Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement; provided, however, that so long as the Lessee shall not be in default under the Lease, the Lessee shall be entitled to the possession and use of the Equipment. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor. This Agreement shall not be modified or amended in a manner that might adversely affect the Lessee without the Lessee's consent.

The Vendee may also lease the Equipment to another corporation, but only with the prior written consent of the Vendor, which consent may be subject to the conditions, among others, that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement, (ii) such lessee shall expressly agree not to use or to assign or permit the use or assignment of any unit of the Equipment to service involving the operation and maintenance thereof outside the United States of America, (iii) such lease shall be assigned to the Vendor as security on terms consistent with those set forth in the Lease Assignment, and in any event satisfactory to the Vendor and (iv) the Guarantor shall be the lessee under, or a guarantor of, such lease.

ARTICLE 13. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or

levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 14. Indemnities. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the ownership by the Vendor of security title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when security title thereto remains in the Vendor or the transfer of security title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except however, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Vendor. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever. Anything in the foregoing provisions of this paragraph to the contrary notwithstanding, the indemnities of the Lessee to the Vendee, as lessor, and to the Vendor, as assignee of the Lease, contained in the Lease constitute the sole and exclusive agreement of the Lessee as to indemnification.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

ARTICLE 15. Assignments. The Vendee will not (a) except as provided in Article 12 hereof or in Article VII of the Trust Agreement, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer

or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee to a vendee, assignee or transferee without the assumption by such party of any of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee of the notification of any such assignment, all payments thereafter to be made by the Vendee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

Anything in the foregoing paragraphs of this Article 15 to the contrary notwithstanding, the Beneficiary, and any assignee of the Beneficiary under the Trust Agreement, may transfer their interest thereunder as permitted by Article VI thereof.

ARTICLE 16. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default shall continue for eight business days; or

(b) the Vendee (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee) shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee or the Guarantor 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 the Lease or of the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) a proceeding shall be commenced by or against the Vendee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee under this Agreement), 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 Vendee under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a

court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or for its property in connection with any such proceedings 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

(e) the Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Vendee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Vendee of such Agreement, interest or right; or

(f) an Event of Default (as defined in § 10 of the Lease) shall have occurred and be continuing under the Lease; provided, however, that if the Lessee defaults in the payment of rent or the making of any other payment required to be made by it under the Lease, which default shall or could with the lapse of time or giving of notice constitute an Event of Default thereunder, the Vendee or the Beneficiary may itself make such payment and such payment shall be deemed to cure in full any Event of Default under this Agreement based upon such default or Event of Default under the Lease; provided, further, however, that the Vendee or the Beneficiary shall not have the right so to cure more than three such defaults or Events of Default (which shall be consecutive) in any one period of twelve calendar months.

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of

such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable and/or (ii) subject to the rights of the Lessee set forth in Article 12 hereof, cause the term of the Lease immediately upon such notice to terminate, but without affecting the indemnities which by the provisions of the Lease survive the termination of its term. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 23 hereof. The Vendee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

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

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to the rights of the Lessee set forth in Article 12 hereof and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from the possession and use of the Vendee, the Lessee or any other person and for such purpose may enter upon the premises of the Lessee or any other prem-

ises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Lessee or any affiliate of the Lessee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points on the lines or premises of the Lessee or any affiliate of the Lessee for the delivery of the Equipment to the Vendor, the Vendee will, subject to the rights of the Lessee set forth in Article 12 hereof, at its own expense, forthwith and in the usual manner, cause (a) the Equipment to be moved to such point or points on the lines of the Lessee or any affiliate of the Lessee as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Lessee or any affiliate of the Lessee until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Vendee agrees to cause to be furnished, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default and subject to any applicable requirements of law, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's

election to retain the Equipment shall be given to the Vendee by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee before the expiration of the 30-day period described in the proviso below should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, and any other persons to whom the law may require notice of the time and place of sale, may, subject to the rights of the Lessee set forth in Article 12 hereof, sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, or any other party claiming from, through or under the Vendee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the pos-

session of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fee and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor and the Vendee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 railroads have been solicited in writing to submit bids), it shall be subject to the right of the Vendee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

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

of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall, subject to the limitations of the last paragraph of Article 4 hereof, pay the amount of such deficiency to the Vendor upon demand, together with the interest from the date of such demand to the date of payment at the highest prime rate of interest charged by any of the four New York City banks having the largest total assets in effect on the date such demand was made, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

The Vendee will, subject to the limitations of the last paragraph of Article 4 hereof, pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then, subject to the limitations of the last paragraph of Article 4 hereof, in such suit the Vendor may recover from the Vendor reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable Federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 19. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. Payment of Expenses. The Vendee will cause to be paid all reasonable costs and expenses (other than the fees and expenses of counsel for the Lessee and the Guarantor) incident to this Agreement and any instrument supplemental or related hereto or thereto, including all reasonable fees and expenses of Messrs. Cadwalader, Wickersham & Taft, special counsel for the Vendor and the Investors.

ARTICLE 21. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Vendee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Vendee.

ARTICLE 22. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at its chief place of business at the following specified addresses:

(a) to the Vendee, at 777 Main Street, Hartford, Connecticut 06115, attention of Corporate Trust Department, with a copy to the Beneficiary at 425 California Street, San Francisco, California 94104,

(b) to the Vendor, at Two Hopkins Plaza, P. O. Box 2258, Baltimore, Maryland 21203, attention of Corporate Trust Department,

(c) to the Guarantor, at 233 North Michigan Avenue, Chicago, Illinois 60601, attention of Treasurer,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 23. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto or the Beneficiary, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the first <sup>and fifth</sup> para-~~graph~~ of Article 7 and the second paragraph of Article 17 and under Articles 3, 6, 9, 10, 11, 13, 14 and 19 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor. The obligations of the Lessee to the Vendee, as lessor, and to the Vendor, as assignee of the Lease, are exclusively set forth in the Lease and shall not be enlarged or affected in any way by reason of the foregoing provisions of this paragraph.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by Hartford National Bank and Trust Company or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank or the Beneficiary or on account of any representation, undertaking or agreement of the Vendee or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under any of them, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

ARTICLE 24. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, record-

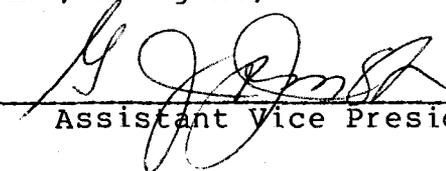
ing or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 25. Execution. This Agreement may be executed in any number of counterparts, each one of which shall be deemed to be an original, such counterparts together constituting but one and the same contract. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

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

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

by

  
Assistant Vice President

[CORPORATE SEAL]

Attest:

  
Corporate Trust Officer

HARTFORD NATIONAL BANK AND TRUST COMPANY, as Trustee,

by

  
Trust Officer

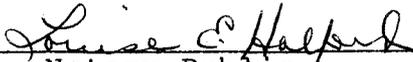
[CORPORATE SEAL]

Attest:

  
Corporate Trust Officer

STATE OF CONNECTICUT, )  
 ) SS.:  
COUNTY OF HARTFORD, )

On this *26th* day of April 1976, before me personally appeared *R* BOYD THOMPSON, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of HARTFORD NATIONAL BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said bank and that said instrument was signed and sealed on behalf of said bank 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 bank.

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

[Notarial Seal]

LOUISE E. HALFORD  
NOTARY PUBLIC  
My Commission expires MY COMMISSION EXPIRES MARCH 31, 1977



Annex A

to

Conditional Sale Agreement

| <u>Type</u>                                  | <u>Quantity</u> | <u>Lessee's<br/>Road<br/>Numbers<br/>(Both<br/>Inclusive)</u>             | <u>Average<br/>Unit<br/>Base<br/>Price</u> | <u>Total<br/>Base<br/>Price</u> |
|--|-----------------|---|--|---------------------------------|
| GP-8<br>1,600 H.P.<br>Diesel<br>Locomotives  | 10              | 7701, 7710, 7713,<br>7714, 7719, 7725,<br>7739, 7902, 7907,<br>7952       | \$272,727                                  | \$2,727,272.73                  |
| GP-10<br>1,850 H.P.<br>Diesel<br>Locomotives | 11              | 8061, 8092, 8110,<br>8119, 8135, 8337,<br>8375, 8377, 8379,<br>8383, 8387 | 272,727                                    | 3,000,000.00                    |
|  |                 |   |  | <u>\$5,727,272.73</u>           |

ANNEX B TO CONDITIONAL SALE AGREEMENT

[Conformed Copy]

---

LEASE OF RAILROAD EQUIPMENT

dated as of October 24, 1975

between

HARTFORD NATIONAL BANK AND TRUST COMPANY,  
as Trustee under a Trust Agreement  
dated as of October 24, 1975, with  
Wells Fargo Transport Leasing Corporation

and

CHICAGO AND ILLINOIS WESTERN RAILROAD

---

LEASE OF RAILROAD EQUIPMENT dated as of October 24, 1975, between CHICAGO AND ILLINOIS WESTERN RAILROAD (hereinafter called the Lessee), and HARTFORD NATIONAL BANK AND TRUST COMPANY, acting as Trustee under a Trust Agreement dated as of the date hereof hereinafter called the Trust Agreement) with WELLS FARGO TRANSPORT LEASING CORPORATION (said bank, so acting, being hereinafter called the Lessor, and said corporation being hereinafter called the Beneficiary).

WHEREAS the Lessee has caused to be reconstructed, the units of railroad equipment described in Schedule A hereto (hereinafter called the Units);

WHEREAS the Lessor desires to purchase the Units and the Lessee agrees to sell the Units to the Lessor;

WHEREAS, the Lessee desires to lease all the Units at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor intends to grant a security interest in the Units to an investor or group of investors pursuant to a conditional sale agreement in form satisfactory to the Lessor (such security agreement being hereinafter called the Security Documentation and such investor or group of investors being hereinafter called the Vendor);

WHEREAS Illinois Central Gulf Railroad Company (hereinafter called the Guarantor) has agreed to guarantee to the Lessor and the Vendor, as provided in a guaranty agreement dated as of the date hereof hereinafter called the Guaranty Agreement), with the Lessor, for the benefit of the Lessor and the Vendor the due and punctual payment of the sums payable by and the due and punctual performance of the obligations of, the Lessee under this Lease;

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

§ 1. Assignment of Right to Purchase. The Lessee hereby assigns, transfers and sets over unto the Lessor, its successors and assigns all the right, title and interest of the Lessee in and to the Units, except to the extent granted to the Lessee by this Lease.

The Lessee represents and warrants, for the benefit of the Lessor and the Vendor, that (i) the Lessee is the lawful owner of the Units, free from all claims, liens, security interests and encumbrances, (ii) the Lessee has the right to sell the Units, (iii) the Lessee will warrant and defend this assignment against the lawful claims and demands of all persons and (iv) that the Units have been reconstructed in accordance with the specifications previously certified to the Lessor by the chief mechanical officer of the Lessee.

§ 2. Purchase Price and Payment. The term Purchase Price shall mean the aggregate purchase price of the Units as set forth in Schedule A hereto. As applied to an individual Unit, Purchase Price shall mean the purchase price of such Unit set forth in Schedule A hereto. On the date first above mentioned, the Lessor shall pay to the Lessee in immediately available funds an amount equal to the Purchase Price of the Units, provided that there shall have been delivered to the Lessor, the following documents, in form and substance satisfactory to it, in such number of counterparts as may be reasonably requested:

(a) a bill of sale from the Lessee to the Lessor transferring to the Lessor title to the Units, warranting to the Lessor that (i) the Lessee has legal title to the Units and good and lawful right to sell such Units and that title to the Units is free of all claims, liens, security interests and other encumbrances of any nature and (ii) the Units have been reconstructed in accordance with the specifications previously certified to the Lessor by an officer of the Lessee, a copy of such specifications to be attached to such bill of sale, and covenanting to defend the title to such Units against the demands of all persons whomsoever; and

(b) an opinion of counsel for the Lessee and the Guarantor to the effect set forth in § 15 hereof.

Upon payment by the Lessor of the Purchase Price of the Units as hereinbefore provided the Units shall be

subject thereafter to all the terms and conditions of this Lease.

§ 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 180 consecutive monthly payments payable on the twenty-fourth day of each month in each year, commencing November 24 1975, in an amount equal to 1.1054% of the Purchase Price. The foregoing sentence notwithstanding, if the Security Documentation is executed and the interest rate applicable thereto is greater than 10-1/4%, the rental payments specified in this § 3 shall be adjusted in a manner which will provide the Lessor with the same yield on the Lessor's investment in the Units as the Lessor would have realized if such interest rate had been 10-1/4%; provided, however, that no adjustment shall be made for any portion of such interest rate which exceeds 10-1/2%.

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

The Lessor irrevocably instructs the Lessee, after the Security Documentation is executed and delivered to make all the payments provided for in this Lease at the principal office of the Vendor, for the account of the Lessor, in care of the Vendor, with instructions to the Vendor first to apply such payments to satisfy the obligations of the Lessor under the Security Documentation known to the Vendor to be due and payable on the date such payments are due and payable hereunder and second, so long as no event of default under the Security Documentation shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. Until the Security Documentation is executed and until delivered, all payments provided for in this Lease shall be made at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in immediately available funds in the city where such payment is to be made.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof

or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or the Beneficiary or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 4. Term of Lease. The term of this Lease as to the Units shall begin on the date first above mentioned and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the Security Documentation. If an event of

default should occur under this Lease or the Security Documentation, the Lessor or the Vendor may terminate this Lease (or rescind its termination), all as provided herein and therein.

§ 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the Security Documentation. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same under this Lease until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect set forth in subclause (viii) of § 15 hereof in respect of such statement. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Vendor for collection or other charges and will be free of expense to the Lessor, the Beneficiary and the Vendor with

respect to the amount of any local, state, Federal or foreign taxes or certification, registration or license fees, assessments, charges, fines or penalties 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 under the terms of this Lease or the Security Documentation (all such expenses, taxes, certification, registration and license fees, assessments, charges, fines and penalties being hereinafter called impositions), 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, and from and against which the Lessee agrees to indemnify, protect, defend, save and keep harmless on an after tax basis the Lessor, the Beneficiary and the Vendor; provided, however, that the Lessee's obligation to pay impositions shall not include (a) any Federal income tax payable by the Beneficiary in consequence of the receipt of payments provided for herein, (b) all income taxes or franchise taxes measured by net income based on such receipts imposed on the Beneficiary by the state and city in which the Beneficiary has its principal place of business, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided, and (c) to the extent that the Beneficiary receives credit therefor against its Federal income tax liability, any foreign income tax; provided, however, that in determining whether the Beneficiary receives credit for any foreign tax, it shall be assumed that credit is received for all other foreign taxes claimed as credits for the taxable year in question before credit is received for any foreign taxes indemnified hereunder which are claimed as credits for such year. The Lessee will also pay promptly all impositions that may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor by reason of its ownership thereof or upon the Vendor or the holders of interests in the Conditional Sale Indebtedness (as defined in the Security Documentation) by reason of the Vendor's security title thereto and any impositions upon or on account of the transactions contemplated by the Security Documentation or the instruments or agreements referred to therein or contemplated thereby, and will keep at all times all and every part of the Units free and clear of all impositions that might in any way affect the title of the Lessor in and to any Unit or its interests or rights under this Lease; provided, however,

that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor or the Vendor, adversely affect the title, interest or rights of the Lessor hereunder or of the Vendor under the Security Documentation. If any impositions shall have been charged or levied against the Lessor, the Beneficiary or the Vendor directly and paid by the Lessor, the Beneficiary or the Vendor, the Lessee shall reimburse the Lessor, the Beneficiary or the Vendor, as the case may be, promptly upon presentation of an invoice therefor. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee (and whose fees and expenses shall be paid by the Lessee), a bona fide claim exists for a refund of all or a portion of any imposition in respect of which the Lessee has made payment to the Lessor, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein. The Lessee shall be entitled to the proceeds of the successful prosecution of any such claim to the extent of payments or reimbursement made by the Lessee pursuant to this § 6.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition, pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee. The obligations of the Lessee under this § 6 constitute a rental obligation.

§ 7. Payment for Casualty Occurrences; Insurance.  
In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessee, irrepar-

ably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in § 14 hereof or § 11 hereof, as the case may be, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B attached hereto. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue. Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such unit it may have, and the term of this Lease as to such Unit shall thereupon terminate.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto.

Whenever any Unit shall suffer a Casualty Occurrence after the final rental payment has been made pursuant to § 3 hereof and before such Unit shall have been returned in the manner provided in § 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Purchase Price of such Unit.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after the date first above mentioned.

The Lessee will cause to be carried and maintained at all times during the term of this Lease physical damage and liability insurance covering the Units in the name of the Lessor and the Lessee in such amounts and in such form as is commonly maintained on comparable equipment by companies similarly situated. The Lessee currently maintains the insurance coverage described in Schedule C. Such insurance policy or policies shall provide that all losses thereunder

will be adjusted with the Lessee, the Lessor or the Vendor and will be payable to the Lessor, the Lessee and the Vendor as their respective interests shall appear, so long as the indebtedness, if any, evidenced by the Security Documentation shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear.

The policies of insurance required hereunder shall be valid and enforceable policies issued by insurers of recognized responsibility comparable to the Lessee's present insurers. Originals of the policies and satisfactory evidence of the payment of premiums thereon shall be delivered by the Lessee to the Lessor except that the Lessor may accept copies of the policies and certificates of insurance in lieu of original policies. Such policies may be blanket policies covering other equipment not covered by this Lease, provided that any blanket policy shall in an accompanying certificate of insurance or rider specifically designate the Units as being included therein and covered thereby to the full extent of the amounts herein required and shall name the Lessor as an additional insured party thereunder with respect to such Units. All such policies shall contain an agreement by the insurers that such policies shall not be cancelled without at least 10 days' prior written notice to the Lessor and that the insurer will give notice to the Lessor in the event of nonpayment of premium by the Lessee when due.

Any insurance proceeds (less expenses of collection) as the result of insurance carried by the Lessee or condemnation payments received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 7, if such amounts are received by the Lessor on the date when such Casualty Value is due; provided, however, that such insurance proceeds or condemnation payments shall thereupon be paid to the Lessor or the Lessee as their interests may appear. If the Lessor shall receive any such insurance proceeds or condemnation payments after the Lessee shall have made payments pursuant to this § 7 without deduction for such amounts, such insurance proceeds or condemnation payments shall be paid to the Lessor or the Lessee, as their interests may appear. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory

to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. Reports. On or before March 31 in each year, commencing with the calendar year 1976, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the Security Documentation have been preserved or replaced. The Lessor and the Beneficiary shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Beneficiary may request during the continuance of this Lease.

The Lessee will furnish the Lessor and the Vendor (i) within 60 days after the end of each of the first three quarterly fiscal periods of the Guarantor, balance sheets of the Guarantor as of the close of such periods, together with the related statements of income and retained earnings, all in reasonable detail and certified by the Comptroller of the Guarantor and (ii) within 120 days after the close of each fiscal year of the Lessee and the Guarantor, (X) the balance sheet of the Lessee as of the close of such fiscal year, together with the statements of income and retained earnings for such fiscal year, all in reasonable detail and certified, by the Treasurer of the Lessee and, (Y) the consolidated balance sheet of the Guarantor and its subsidiaries as of the close of such fiscal year, together with the consolidated statements of income and retained earnings for such fiscal year, all prepared in reasonable detail in accordance with generally accepted accounting principles and certified by a recognized national firm of independent public accountants, including accompanying notes, (iii) within 120 days after the close of each fiscal year of the Lessee and the Guarantor, a certificate of the Lessee and the Guarantor, as the case may be, signed by a principal financial officer or a vice president of each, to the effect

that the signer has reviewed the relevant terms of this Lease and the Guaranty Agreement, as the case may be, and has made, or caused to be made under his supervision, a review of the transactions and condition of the Lessee and the Guarantor, as the case may be, during the preceding fiscal year, and that such review has not disclosed the existence during such period, nor does the signer have knowledge of the existence as at the date of such certificate, of any condition or event which constitutes an Event of Default or which, after notice or lapses of time or both, would constitute an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee or the Guarantor, as the case may be, has taken or is taking or proposes to take with respect thereto, (iv) promptly upon the filing of the same, the Railroad Annual Report Form R-2 and R-1 (or any form substituted therefor) of the Lessee and the Guarantor, respectively, and (v) from time to time such other information as the Lessor may reasonably request. The Lessee will furnish the Lessor from time to time on request such reasonably requested information as the Lessee or the Lessor may be required to furnish to any person pursuant to the Security Documentation.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Use; Maintenance; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units.

The warranty of the Lessee set forth in § 1 hereof shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documentation.

The Lessee agrees that none of the Units will be used outside the Continental United States.

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

Any and all additions to any Unit (except equipment or devices which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit, which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body and which may be readily removed from such Unit without materially damaging such Unit or the value thereof) and any and all parts installed on and additions and replace-

ments made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documentation) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself. The Lessee shall not permit any special device or assembly to be attached or affixed to any Unit which may not be readily removed from such Unit without materially impairing such Unit or the value thereof unless such special device or assembly is to be considered an accession to such Unit.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default or an event of default under the Security Documentation or an Event of Default under this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in § 14 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease.

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

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

A. default shall be made in payment of any amount

provided for in §§ 3, 7 or 13 hereof, and such default shall continue for seven business days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

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 of the Guarantor contained in the Guaranty Agreement and such default shall continue for 25 days after written notice from the Lessor or the Vendor to the Lessee and/or the Guarantor specifying the default and demanding that the same be remedied;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee or the Guarantor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or of the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

E. any other proceedings shall be commenced by or against the Lessee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or of the Guarantor under the Guaranty Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or of the Guarantor under the Guaranty Agreement), and, unless such proceedings

shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or of the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or the Guarantor or for the property of the Lessee or the Guarantor in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

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

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such

full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Units which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 7-1/2% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Beneficiary and in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Beneficiary, cause the Beneficiary's net after-tax annual cash flow and net after-tax annual rate of return to be the same as such net after-tax annual cash flow and net after-tax annual rate of return would have been had the Beneficiary been entitled to utilization of all or such portion of the ADR Deduction (as such deduction is defined in § 17 hereof) which was lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor or the Beneficiary by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default plus such sum as will pay or reimburse the Beneficiary for any interest, penalties or additions to tax incurred in connection with such loss, failure to

claim, inability to claim, disallowance or recapture.

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

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

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner and at the usual speed place such Units upon such storage tracks of the Lessee or any of its affiliates as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage for a period of 180 days or until such Units have been sold, leased or otherwise disposed of by the Lessor, whichever shall occur first; and

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

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction 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 Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .036847% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7, 9, 10 and 17 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively).

So long as no Event of Default hereunder or event of default under the Security Documentation occurs, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Security Documentation, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them, except that the Lessee may sublease the Units to any current or future affiliate of the Lessee. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien,

charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as no Event of Default hereunder or event of default under the Security Documentation occurs, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it and to sublease the Units to any current or future affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to runthrough agreements, but only upon and subject to all the terms and conditions of this Lease and the Security Documentation; provided, however, that the Lessee shall not use or permit the use of any Unit in service involving the operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 13. [Not used.]

§ 14. Return of Units upon Expiration of Term.

As soon as practicable on or after the expiration of the original or extended term of this Lease, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of the Units to the Lessor upon such storage tracks of the Lessee or an affiliate 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 the Units on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee or an affiliate of the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of the Units to be at the expense and risk 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 Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 14 shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which .036847% of the Purchase Price of such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

§ 15. Representations and Warranties; Opinion of Counsel. The Lessee represents and warrants for the benefit of the Lessor, the Beneficiary and the Vendor that:

(i) the Lessee and the Guarantor are corporations duly organized and validly existing in good standing under the laws of their states of incorporation and are duly qualified and authorized to do business wherever necessary to carry on their present businesses and operations and to own their properties and to perform their obligations under this Lease and the Guaranty Agreement, as the case may be;

(ii) the Lessee and the Guarantor have the full power, authority and legal right to enter into and perform their obligations under this Lease and the Guaranty Agreement, as the case may be, and the execution, delivery and performance of this Lease and the Guaranty Agreement, as the case may be, have been duly authorized by all necessary corporate action on the part of the Lessee and the Guarantor;

(iii) neither the Lessee nor the Guarantor is a party to any agreement or instrument or subject to any charter or other corporate restriction which will materially adversely affect its financial condition, business or operations or the ability of the Lessee or the Guarantor to perform its obligations under this Lease or the Guaranty Agreement, as the case may be;

(iv) neither the execution and delivery of this Lease or the Guaranty Agreement nor the consummation of the transaction herein or therein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof and thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality, or of the corporate charter (as amended) or the by-laws (as amended) of the Lessee or the Guarantor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessee or the Guarantor is now a party or by which it may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder;

(v) no mortgage, deed of trust or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interest therein of the Lessee or the Guarantor, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Vendor's or the Lessor's right, title and interest therein; provided, however, that such liens may attach to the leasehold interest of the Lessee hereunder in and to the Units;

(vi) no authorization or approval is required from any governmental or public body with respect to the entering into or performance by the Lessee of this Lease or by the Guarantor of the Guaranty Agreement, except for the approval where such is necessary of the Illinois Commerce Commission which has been obtained;

(vii) this Lease and the Guaranty Agreement have been duly authorized, executed and delivered by the Lessee and the Guarantor, as the case may be, and, assuming due authorization, execution and delivery thereof by the other parties thereto, are legal, valid and binding agreements, enforceable in accordance with their terms; subject as to the enforcement of remedies to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally;

(viii) this Lease has been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Lessor's interest in and to the Units and no filing, recording or deposit (or giving of notice) with any other Federal, state or local government or agency is necessary in order to protect the interests of the Lessor in and to the Units in the United States of America;

(ix) no adverse change has occurred in the financial condition of the Lessee since June 30, 1975; and

(x) the financial statements contained in the Railroad Annual Report Form R-1 and R-2 (or Form C and Form A, as the case may be) of the Lessee and the Guarantor, respectively, for the three fiscal years ended December 31, 1974, and the financial statements contained

in the quarterly reports on forms CBS and RE&I for the quarterly periods ended June 30, 1975, correctly set forth the financial condition of the Lessee and the Guarantor as of the dates and the results of operations thereof for the periods covered thereby and the Lessee has furnished the Lessor and the Vendor with copies of such financial statements.

(xi) the transactions contemplated by this Lease will raise no presumption of fraud as against and will be effective against all creditors of Lessee under applicable state and federal laws, including, without limitation, laws relating to fraudulent conveyances or bulk transfers.

Simultaneously with the execution and delivery of this Lease the Lessee will deliver to the Lessor counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor, in scope and substance satisfactory to the Lessor and its counsel, to the effect set forth in clauses (i), (ii), (iv), (v), (vi), (vii), (viii) and (xi) and confirming that the authorization required by clause (vi) has been duly obtained. The Lessee will also deliver to the Lessor counterparts of a certificate of the chief mechanical officer of the Lessee as to each Unit having a useful economic life of at least 20-1/2 years and an anticipated residual value at the end of 15 years of at least 20% of the Purchase Price thereof.

§ 16. Recording. The Lessee will cause this Lease and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation and the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor.

§ 17. Federal Income Taxes. This Lease has been, and the Security Documentation will be, entered into on the assumptions that (A) the Beneficiary, as the beneficial owner of the Units, will be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the "Code"), to an owner of property, including, without limitation the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code for used property (hereinafter called the ADR Deduction), (a) utilizing a 12-year depreciable life, which is the lower limit listed in Revenue Procedure 72-10, 1972-1 C.B. 721, for property in Asset Guideline Class No. 00.25, in accordance with the Class Life Asset Depreciation Range System described in Section 167(m) of the Code and the Treasury Regulations promulgated thereunder as in effect on the date hereof, (b) employing initially the 150% declining-balance method of depreciation with a change, not requiring the consent of the Commissioner of Internal Revenue, to the straight line method of depreciation when most beneficial to the Lessor, (c) including in the basis of the Units the entire Purchase Price thereof and all other items properly includable under Section 1012 of the Code (hereinafter called the Basis), and (d) taking into account a salvage value, after the reduction allowed by Section 167(f) of the Code, of zero; and (B) all amounts includable in gross income by the Lessor or the Beneficiary with respect to this Lease will be treated as income from sources within the United States.

The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing or which would increase the amount of rentals required to be taken into income by the Lessor or the Beneficiary, and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. The Lessee agrees to keep and make available for inspection and copying by the Lessor such records as will enable the Beneficiary to determine whether it is entitled (A) to the full benefit of the ADR Deduction with respect to the Units, and (B) to treat amounts includable in gross income with respect to this Lease as income from sources within the United States.

If (A) for any reason whatsoever (other than for

the reasons set forth below) all or any part of the ADR Deduction with respect to any Unit shall be unavailable in computing each of the items of income, gain, loss, deduction or credit of the Beneficiary, or (B) the Lessor or the Beneficiary shall not be entitled to treat all amounts includable in gross income with respect to this Lease as income from sources within the United States for any taxable year (or portion thereof) during which this Lease is in effect as the result of the location of any Unit outside the United States, then the rental applicable to such Unit set forth in § 3 shall, on the next succeeding rental payment date after written notice to the Lessee by the Lessor of such fact, be increased by such amount as shall be required, in the reasonable opinion of tax counsel for the Beneficiary to cause the Beneficiary's net after-tax annual cash flow and net after-tax rate of return to be the same as such net after-tax annual cash flow and net after-tax rate of return would have been had the ADR Deduction been wholly available and had the Lessor and the Beneficiary been entitled to treat all amounts includable in gross income with respect to this Lease as income from sources within the United States; provided, however, that such rental shall not be so increased to the extent that the ADR Deduction with respect to such Unit is unavailable as a direct result of the occurrence of any of the following events:

(i) a voluntary transfer by the Lessor of legal title to such Unit, a voluntary disposition by the Lessor of any interest in such Unit or a voluntary reduction by the Lessor of its interest in the rentals from such Unit under the Lease (except pursuant to an assignment of this Lease to the Vendor), unless, in each case, an Event of Default shall have occurred and be continuing;

(ii) the failure of the Beneficiary to claim the ADR Deduction on its income tax return for the appropriate year, unless the Beneficiary shall have received an opinion of independent tax counsel to the effect that the Beneficiary is not entitled to claim the ADR Deduction; or

(iii) the failure of the Beneficiary to have sufficient income to benefit from the ADR Deduction.

In the event a claim shall be made against the Lessor or the Beneficiary which, if successful, would result

in payment by the Lessee of increased rental pursuant to the preceding paragraph, and if, in the opinion of the Lessor's or the Lessee's tax counsel (hereinafter called Counsel), a bona fide defense to such claim exists, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such defense; provided, however, that the Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses that may be entailed therein. The Lessor may, at its option, take such action prior to making payment of any tax, interest or penalty with respect to such claim (hereinafter called a Tax Payment) or may make such Tax Payment and then sue for a refund. If the Lessor takes such action prior to making such Tax Payment, such increased rental need not be paid by the Lessee while such action is pending. In such case, if the final determination shall be adverse to the Lessor, the increased rental shall be computed by the Lessor as of the date of such final determination and the Lessee shall commence payment thereof on the rental payment date next succeeding such final determination and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental an amount which, when reduced by any increase in the Lessor's or the Beneficiary's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental, will equal the amount of all interest and penalty paid by the Lessor or the Beneficiary in respect of such final determination. If the Lessor or the Beneficiary makes such Tax Payment and then sues for a refund, such increased rental shall commence to be payable by the Lessee on the first rental payment date after such Tax Payment is made and, on or before such rental payment date, the Lessee shall pay to the Lessor as additional rental an amount which, when reduced by the increase in the Lessor's or the Beneficiary's income tax liability or liabilities resulting from the Lessor's receipt of such additional rental, will equal the amount of all interest and penalty paid by the Lessor or the Beneficiary included in such Tax Payment. In such case, if the final determination shall be in favor of the Lessor, (A) the rental payable by the Lessee to the Lessor shall be adjusted by such amount as shall be required, in the reasonable opinion of the Beneficiary, and pursuant to the assumptions set forth in the immediately preceding paragraph, to cause the Beneficiary's net after-tax annual cash flow and net after-tax rate of return to be the

same as such net after-tax annual cash flow and net after-tax rate of return would have been if such Tax Payment had not been made (or such adjustment shall be made proportionately if the final determination is partly in favor of and partly adverse to the Lessor) and such adjusted rental shall be payable by the Lessee on the rental payment date next succeeding such final determination and thereafter, and (B) the Lessor shall pay to the Lessee an amount which, when reduced by the tax benefit to the Lessor resulting from the payment of such amount, will equal the amount of any penalty or interest refunded to the Lessor as a result of such final determination and any interest on such refunded penalty and interest paid to the Lessor by the government, promptly upon receipt thereof.

In the event that the Lessee shall pay all or any portion of any instalment of rental prior to the date upon which such payment is herein required to be made, the Lessee shall pay to the Lessor an amount which, after deduction of all taxes and other charges in respect of the receipt of such amount under the laws of any federal, state or local governmental or taxing authority in the United States or under the laws of any foreign country or subdivision of any taxing authority thereof, shall be equal to the excess of (A) the taxes and other charges payable by the Lessor and the Beneficiary as a result of the receipt of such instalment of rental over (B) the taxes and other charges that would have been payable by the Lessor and the Beneficiary had such instalment of rent been paid by the Lessee on the date upon which such payment is herein required to be made.

In the event the rental rates shall be adjusted as hereinbefore provided, the Casualty Values set forth in § 7 hereof shall be adjusted accordingly.

The Lessee's and the Lessor's agreements to pay any sums which may become payable pursuant to this § 17 shall survive the expiration or other termination of this Lease.

It is understood that Lessee will claim, in respect of the Units, the investment credit allowable under Section 38 of the Code.

§ 18. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 11-1/4% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser

amount as may be legally enforceable.

§ 19. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at 777 Main Street, Hartford, Connecticut 06115, attention of R. Boyd Thompson, Trust Officer (with a copy to the Beneficiary at 425 California Street, San Francisco, California 94109),

(b) if to the Lessee, to its Treasurer at 111 E. Wacker Dr., Chicago, Illinois 60601, and

(c) if to the Guarantor, to its Treasurer at 233 N. Michigan Avenue, Chicago, Illinois 60601,

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

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

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

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

§ 23. Immunities; No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, 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, undertakings and agreements by Hartford National Bank and Trust Company or for the purpose or with the intention of binding said bank personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, or the Beneficiary or on account of any representation, undertaking or agreement of the Lessor or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

§ 24. Agreements for Benefit of Beneficiary. All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 10 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiary and any of the Beneficiary's assigns under the Trust Agreement.

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

HARTFORD NATIONAL BANK AND TRUST  
COMPANY, as Trustee,

by

John F. Stockinger  
Authorized Officer

[Corporate Seal]

Attest:

A. L. Eafano  
Assistant Secretary

CHICAGO AND ILLINOIS WESTERN RAILROAD,

by

J. T. Grade  
Vice President

[Corporate Seal]

Attest:

R. J. Switzer  
Assistant Secretary



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

On this 24th day of October 1975, before me personally appeared J. T. GRADE, to me personally known, who, being by me duly sworn, says that he is a Vice President of CHICAGO AND ILLINOIS WESTERN RAILROAD, 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.

Helen M. Huedepohl  
Notary Public

[Notarial Seal]

My Commission expires

December 7, 1976

SCHEDULE A TO LEASE

| <u>Type</u>                                      | <u>Quantity</u> | <u>Average<br/>Unit Base<br/>Price</u> | <u>Total<br/>Base<br/>Price</u> | <u>Lessee's<br/>Road Numbers<br/>(Both Inclusive)</u>                  |
|--|-----------------|--|---------------------------------|--|
| 1,600 hp. GP-8<br>diesel<br>locomotive,          | 11              | \$272,727                              | \$3,000,000                     | 7701, 7710, 7713, 7714,<br>7719, 7725, 7737, 7739,<br>7902, 7907, 7952 |
| 1,850 hp GP-10<br>diesel-electric<br>locomotive, | 11              | \$272,727                              | \$3,000,000                     | 8061, 8092, 8110, 8119,<br>8135, 8337, 8375, 8377,<br>8379, 8383, 8387 |
|  |                 |  | \$6,000,000*                    |  |

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\* Aggregate Purchase Price.

SCHEDULE B

CASUALTY VALUE

| <u>From the Due<br/>Date for<br/>Rental<br/>Payment Number:</u> | <u>Until the Due<br/>Date for<br/>Rental<br/>Payment Number:</u> | <u>The Casualty Value<br/>as a Percentage of<br/>Original Cost for Each<br/>Unit of Equipment is:</u> |
|---|--|---|
| *   | 1  | 104.28146   |
| 1   | 2  | 104.45040   |
| 2   | 3  | 104.61222   |
| 3   | 4  | 104.76692   |
| 4   | 5  | 104.91450   |
| 5   | 6  | 105.05497   |
| 6   | 7  | 105.18831   |
| 7   | 8  | 105.31453   |
| 8   | 9  | 105.43364   |
| 9   | 10   | 105.54563   |
| 10  | 11   | 105.65049   |
| 11  | 12   | 105.74824   |
| 12  | 13   | 105.83887   |
| 13  | 14   | 105.92237   |
| 14  | 15   | 105.99876   |
| 15  | 16   | 106.06803   |
| 16  | 17   | 106.13018   |
| 17  | 18   | 106.18522   |
| 18  | 19   | 106.23313   |
| 19  | 20   | 106.27392   |
| 20  | 21   | 106.30760   |
| 21  | 22   | 106.33415   |
| 22  | 23   | 106.35359   |
| 23  | 24   | 106.36590   |
| 24  | 25   | 106.37110   |
| 25  | 26   | 106.36918   |
| 26  | 27   | 106.36014   |
| 27  | 28   | 106.34398   |
| 28  | 29   | 106.32070   |
| 29  | 30   | 106.29030   |
| 30  | 31   | 106.25278   |
| 31  | 32   | 106.20815   |

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\* From and including the date of the Lease.

| <u>From the Due</u><br><u>Date for</u><br><u>Rental</u><br><u>Payment Number:</u> | <u>Until the Due</u><br><u>Date for</u><br><u>Rental</u><br><u>Payment Number:</u> | <u>The Casualty Value</u><br><u>as a Percentage of</u><br><u>Original Cost for Each</u><br><u>Unit of Equipment is:</u> |
|---|--|---|
| 32  | 33   | 106.15639   |
| 33  | 34   | 106.09752   |
| 34  | 35   | 106.03152   |
| 35  | 36   | 105.95841   |
| 36  | 37   | 105.87818   |
| 37  | 38   | 105.79082   |
| 38  | 39   | 105.69635   |
| 39  | 40   | 105.59475   |
| 40  | 41   | 105.48605   |
| 41  | 42   | 105.37022   |
| 42  | 43   | 105.24727   |
| 43  | 44   | 105.11720   |
| 44  | 45   | 104.98002   |
| 45  | 46   | 104.83571   |
| 46  | 47   | 104.58428   |
| 47  | 48   | 104.52574   |
| 48  | 49   | 104.36008   |
| 49  | 50   | 104.18729   |
| 50  | 51   | 104.00739   |
| 51  | 52   | 103.82037   |
| 52  | 53   | 103.62493   |
| 53  | 54   | 103.42497   |
| 54  | 55   | 103.21659   |
| 55  | 56   | 103.00189   |
| 56  | 57   | 102.77848   |
| 57  | 58   | 102.54874   |
| 58  | 59   | 102.31188   |
| 59  | 60   | 102.06791   |
| 60  | 61   | 101.81682   |
| 61  | 62   | 101.55860   |
| 62  | 63   | 101.29327   |
| 63  | 64   | 101.02082   |
| 64  | 65   | 100.74125   |
| 65  | 66   | 100.45156   |
| 66  | 67   | 100.16075   |
| 67  | 68   | 99.85982  |
| 68  | 69   | 99.56177  |
| 69  | 70   | 99.23660  |
| 70  | 71   | 98.91431  |
| 71  | 72   | 98.58491  |
| 72  | 73   | 98.24838  |
| 73  | 74   | 98.90474  |

| <u>From the Due</u><br><u>Date for</u><br><u>Rental</u><br><u>Payment Number:</u> | <u>Until the Due</u><br><u>Date for</u><br><u>Rental</u><br><u>Payment Number:</u> | <u>The Casualty Value</u><br><u>as a Percentage of</u><br><u>Original Cost for Each</u><br><u>Unit of Equipment is:</u> |
|---|--|---|
| 74  | 75   | 97.55398  |
| 75  | 76   | 97.19609  |
| 76  | 77   | 96.83109  |
| 77  | 78   | 96.45897  |
| 78  | 79   | 96.07973  |
| 79  | 80   | 95.69337  |
| 80  | 81   | 95.29989  |
| 81  | 82   | 94.89930  |
| 82  | 83   | 94.49158  |
| 83  | 84   | 94.07674  |
| 84  | 85   | 93.65479  |
| 85  | 86   | 93.22571  |
| 86  | 87   | 92.78952  |
| 87  | 88   | 92.34621  |
| 88  | 89   | 91.89578  |
| 89  | 90   | 91.43822  |
| 90  | 91   | 90.97355  |
| 91  | 92   | 90.50176  |
| 92  | 93   | 90.02285  |
| 93  | 94   | 89.53682  |
| 94  | 95   | 89.04368  |
| 95  | 96   | 88.54341  |
| 96  | 97   | 88.03602  |
| 97  | 98   | 87.52152  |
| 98  | 99   | 86.99989  |
| 99  | 100  | 86.47115  |
| 100   | 101  | 85.94529  |
| 101   | 102  | 85.39230  |
| 102   | 103  | 84.84220  |
| 103   | 104  | 84.28498  |
| 104   | 105  | 83.72064  |
| 105   | 106  | 83.14918  |
| 106   | 107  | 82.57061  |
| 107   | 108  | 81.98491  |
| 108   | 109  | 81.39209  |
| 109   | 110  | 80.79216  |
| 110   | 111  | 80.18510  |
| 111   | 112  | 79.57093  |
| 112   | 113  | 78.94963  |
| 113   | 114  | 78.32122  |
| 114   | 115  | 77.68569  |
| 115   | 116  | 77.04304  |

| <u>From the Due</u><br><u>Date for</u><br><u>Rental</u><br><u>Payment Number:</u> | <u>Until the Due</u><br><u>Date for</u><br><u>Rental</u><br><u>Payment Number:</u> | <u>The Casualty Value</u><br><u>as a Percentage of</u><br><u>Original Cost for Each</u><br><u>Unit of Equipment is:</u> |
|---|--|---|
| 116   | 117  | 76.39327  |
| 117   | 118  | 75.73638  |
| 118   | 119  | 75.07237  |
| 119   | 120  | 74.40124  |
| 120   | 121  | 73.72299  |
| 121   | 122  | 73.03763  |
| 122   | 123  | 72.34514  |
| 123   | 124  | 71.64554  |
| 124   | 125  | 70.93881  |
| 125   | 126  | 70.22497  |
| 126   | 127  | 69.50401  |
| 127   | 128  | 68.77592  |
| 128   | 129  | 68.04072  |
| 129   | 130  | 67.29840  |
| 130   | 131  | 66.54896  |
| 131   | 132  | 65.79241  |
| 132   | 133  | 65.02873  |
| 133   | 134  | 64.25793  |
| 134   | 135  | 63.48002  |
| 135   | 136  | 62.69498  |
| 136   | 137  | 61.90283  |
| 137   | 138  | 61.10355  |
| 138   | 139  | 60.29716  |
| 139   | 140  | 59.48365  |
| 140   | 141  | 58.66301  |
| 141   | 142  | 57.83526  |
| 142   | 143  | 57.00039  |
| 143   | 144  | 56.15840  |
| 144   | 145  | 55.30930  |
| 145   | 146  | 54.45307  |
| 146   | 147  | 53.58972  |
| 147   | 148  | 52.71926  |
| 148   | 149  | 51.84167  |
| 149   | 150  | 50.96607  |
| 150   | 151  | 50.06514  |
| 151   | 152  | 49.16620  |
| 152   | 153  | 48.26014  |
| 153   | 154  | 47.34696  |
| 154   | 155  | 46.42666  |
| 155   | 156  | 45.49924  |
| 156   | 157  | 44.56478  |
| 157   | 158  | 43.62304  |

| <u>From the Due<br/>Date for<br/>Rental<br/>Payment Number:</u> | <u>Until the Due<br/>Date for<br/>Rental<br/>Payment Number:</u> | <u>The Casualty Value<br/>as a Percentage of<br/>Original Cost for Each<br/>Unit of Equipment is:</u> |
|---|--|---|
| 158   | 159  | 42.67426  |
| 159   | 160  | 41.71837  |
| 160   | 161  | 40.75536  |
| 161   | 162  | 39.78522  |
| 162   | 163  | 38.80795  |
| 163   | 164  | 37.82359  |
| 164   | 165  | 36.83289  |
| 165   | 166  | 35.83548  |
| 166   | 167  | 34.82775  |
| 167   | 168  | 33.81490  |
| 168   | 169  | 32.79493  |
| 169   | 170  | 31.76784  |
| 170   | 171  | 30.73364  |
| 171   | 172  | 29.69231  |
| 172   | 173  | 28.64386  |
| 173   | 174  | 27.58030  |
| 174   | 175  | 26.52561  |
| 175   | 176  | 25.45581  |
| 176   | 177  | 24.37881  |
| 177   | 178  | 23.29484  |
| 178   | 179  | 22.20388  |
| 179   | 180  | 21.10540  |

The Stipulated Loss Values set forth above do not take into account the loss of any investment tax credit or depreciation deductions.

SCHEDULE C

Insurance Coverage on Diesel Locomotives

Property

- (1) \$50,000 Deductible each and every loss Fire and/or Extended Coverage on all Property Excluding Track, Roadbed, and Fire following Collision, Derailment, Overturn of Diesels and Lightweight Equipment.
- (2) \$500,000 Deductible each and every loss To Cover Diesel Locomotives and Lightweight Equipment in the event of Collision and/or Derailment and/or Overturn including Fire following. Replacement basis for Total Loss and/or Constructive Total Loss.

Limit of Liability: \$4,000,000

Excess Public Liability

- (1) Deductible \$1,500,000 each and every loss  
Covers Bodily Injury, Property Damage, and Federal Employers Liability Act (FELA)  
Limits of Liability: (Freight)  
\$26,500,000 Excess of \$1,500,000 Self-Insured Retention  
75% of \$25,000,000 Excess of \$26,500,000  
(Passenger) \$16,000,000 Excess of \$1,500,000 Self-Insured Retention

ANNEX C TO CONDITIONAL SALE AGREEMENT

[Conformed Copy]

GUARANTY AGREEMENT

GUARANTY AGREEMENT dated as of October 24, 1975, between ILLINOIS CENTRAL GULF RAILROAD COMPANY (hereinafter called the Guarantor) and HARTFORD NATIONAL BANK AND TRUST COMPANY, as Trustee (hereinafter called the Lessor) under a Trust Agreement dated as of the date hereof with Wells Fargo Transport Leasing Corporation.

WHEREAS, pursuant to a Lease of Railroad Equipment dated as of the date hereof hereinafter called the Lease) between the Lessor and Chicago and Illinois Western Railroad (hereinafter called the Lessee), the Lessor has purchased the units of railroad equipment (hereinafter called the Units) described in Schedule A to the Lease;

WHEREAS the Lease further provides for the leasing by the Lessor to the Lessee of the Units;

WHEREAS the Lessor intends to assign the Lease to a group of investors such investors being hereinafter called the Investors) pursuant to an assignment of lease and agreement (hereinafter called the Lease Assignment) for the purpose of securing conditional sale indebtedness hereinafter called the Conditional Sale Indebtedness) to be incurred by the Lessor to the Investors; and

WHEREAS as an inducement to the Lessor to enter into the Lease with the Lessee and to lease the Units to the Lessee and as an inducement to the Investors to invest in the Conditional Sale Indebtedness pursuant to which the Lessor intends to finance its purchase of the Units, the Guarantor has agreed to guarantee as hereinafter provided all obligations and covenants of the Lessee under the Lease;

NOW, THEREFORE, in consideration of the premises and the execution and delivery of the Lease and as an inducement to the Investors as aforesaid and of other good and valuable consideration and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Guarantor hereby unconditionally guarantees to the Lessor and the agent hereinafter called the Agent)

acting on behalf of the Investors the due and punctual payment by the Lessee of all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease due and to be due under the Lease in respect of the Units thereunder, and the due and punctual performance of all obligations of the Lessee under the Lease.

The Guarantor unconditionally agrees that, whenever an attorney is used to enforce this Agreement or to enforce or adjudicate any rights or obligations under this Agreement, whether by suit or by any other means whatsoever, and provided that the Lessor or Agent is afforded or granted any relief, full or partial, all reasonable costs and fees of such attorney shall be payable by the Guarantor.

2. The Guarantor hereby agrees that its obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of the Lease or this Agreement or any conduct of the Lessee and/or the Lessor which might constitute a legal or equitable discharge of a surety or guarantor and irrespective of any circumstances which might limit the recourse of the Agent or the Lessor to the Lessee. The Guarantor hereby waives diligence, presentment, demand for payment, notice of dishonor and protest. No waiver by the Lessor of any of its rights hereunder or under the Lease and no action by the Lessor to enforce any of its rights hereunder or under the Lease or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder.

No agreement, unless in writing and signed by the Lessor, and no course of dealing between the Lessee and/or the Guarantor and the Lessor shall be effective to change or modify or to discharge in whole or in part this Agreement. No consent or waiver of any rights or powers of the Lessor shall be valid unless in writing and signed by the Lessor.

The Lessor may, with the consent of the Lessee but without notice to the Guarantor, amend the Lease or renew, extend or modify any of the Lessee's obligations thereunder without affecting the Guarantor's liability hereunder, which shall be total and absolute; provided that no amendment to the Lease shall increase the liability of the Guarantor hereunder without the written consent of the Guarantor.

The Guarantor waives any right to require that any action be brought against the Lessee or any other person before proceeding against the Guarantor hereunder. This

Agreement shall not be limited to any specific time or period so long as the Lessee shall have any obligations whatsoever under the Lease. Any final judgment recovered by the Lessor against the Lessee with respect to an obligation of the Lessee under the Lease shall be conclusive against the Guarantor in so far as it relates to the payment of money regardless of whether the Guarantor was joined as a party to the action. The Lessor shall use best efforts to give reasonable notice to the Guarantor of the institution by it of any proceedings against the Lessee; provided, however, that notwithstanding any failure to give such notice the obligations of the Guarantor hereunder shall not be affected.

3. The Guarantor hereby acknowledges that it has received copies of the Lease and is fully aware of all the terms and conditions thereof.

The obligations of the Lessor, and the investment by the Investors in the Conditional Sale Indebtedness when made, shall conclusively be presumed to have been created, contracted or incurred in reliance upon, among other things, this Agreement.

4. The Guarantor agrees that prior to the payment of the Purchase Price (as set forth in § 2 of the Lease it will furnish to the Lessor copies of the opinion of counsel (upon which the Agent and the Investors shall be entitled to rely and which shall so state) required by § 15 of the Lease and the Guarantor confirms to the Lessor, the Agent and the Investors the accuracy of the representations and warranties contained in said § 15.

5. Each reference herein to the Lessee shall be deemed to include its successors and assigns. Each reference herein to the Lessor and the Agent shall be deemed to include their respective successors and assigns. Each reference herein to the Guarantor shall be deemed to include the legal representatives, successors and assigns of the Guarantor, all of whom shall be bound by the provisions of this Agreement.

6. This Agreement shall in all respects be governed by and construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties, each pursuant to due corporate authority, have caused these presents to be

signed in their respective corporate names by duly authorized officers and their respective corporate seals hereunder to be affixed and duly attested, as of the date first above written.

ILLINOIS CENTRAL GULF RAILROAD COMPANY,

by

J. R. Lynch  
Vice President

[Corporate Seal]

Attest:

R. E. Wiese  
Assistant Secretary

HARTFORD NATIONAL BANK AND TRUST COMPANY, as Trustee,

by

R. Boyd Thompson  
Authorized Officer

[Corporate Seal]

Attest:

J. Eno  
Corporate Trust Officer





ANNEX D TO  
CONDITIONAL SALE AGREEMENT

ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 15, 1976 (hereinafter called this Assignment), by and between HARTFORD NATIONAL BANK AND TRUST COMPANY, as Trustee (hereinafter called the Lessor) under a Trust Agreement dated as of October 24, 1975 (hereinafter called the Trust Agreement), with Wells Fargo Transport Leasing Corporation (hereinafter called the Beneficiary) and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (hereinafter called the Vendor) under a Finance Agreement dated as of the date hereof.

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Documentation), with the Vendor providing for the conveyance by the Lessor to the Vendor of security title to the units of railroad equipment (hereinafter called the Units) described in Annex A thereto;

WHEREAS the Lessor and Chicago and Illinois Western Railroad Company (hereinafter, in its capacity as Lessee, called the Lessee) have entered into a Lease of Railroad Equipment dated as of October 24, 1975 (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the Security Documentation and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Documentation), the Lessor has agreed to assign for security purposes its rights in, to and under the Lease to the Vendor to the extent set forth herein; and

WHEREAS as an inducement to the Lessor to enter into the Lease and to lease the Units to the Lessee and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness Illinois Central Gulf Railroad Company has guaranteed all obligations and covenants of the Lessee under the Lease pursuant to a Guaranty Agreement dated as of October 24, 1975;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree

as follows:

1. Subject to the provisions of Paragraph 11 hereof, the Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as vendee under the Security Documentation, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals (other than rentals payable pursuant to § 17 of the Lease), profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Security Documentation, subject to the limitations contained in the last paragraph of Article 4 of the Security Documentation, and so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor, by check mailed to the Lessor on such date or, upon written request of the Lessor, by bank wire to the Lessor at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due, the Vendor shall notify the Lessor at the address set forth in the Lease;

provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Security Documentation.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Lessee and the Lessor under the Security Documentation, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title

and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. On the Closing Date (as defined in the Security Documentation) the Lessor will furnish the Vendor with an opinion of counsel that this Assignment has been duly authorized, executed and delivered by the Lessor and is a legal and valid agreement binding on the Lessor.

7. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

8. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due.

9. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

10. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 22 of the Security Documentation, or at such other address as the Vendor shall designate.

11. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the rights of the Lessee under the Lease and the Security Documentation, the Lessor may, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits; provided that after an event of default under the Security Documentation shall have occurred and be continuing, the Vendor may, subject to the rights of the Lessee under the Lease, exercise

or enforce, or seek to exercise or enforce or avail itself of, such rights, powers, privileges, authorizations or benefits.

12. Notwithstanding any other provision of this Assignment (including, but not limited to, any provision of the first paragraph of Paragraph 1 and Paragraph 3 hereof), (a) the terms of this Assignment shall not impose any obligations on the Lessor in addition to the obligations of the Lessor under the Lease or under the Security Documentation or in any way limit the effect of the last paragraph of Article 4 of the Security Documentation, Article 23 of the Security Documentation or § 23 of the Lease, (b) so long as there is no event of default under the Security Documentation, and to the extent that the Vendor does not seek to receive and collect any Payments under the Lease in excess of the amounts required to discharge the obligations of the Lessor under the Security Documentation, the terms of this Assignment shall not limit or in any way affect the Lessor's right to receive and collect any Payments under the Lease in excess of the obligations of the Lessor under the Security Documentation, or empower the Vendor in any way to waive or release the Lessee's obligation to pay such excess amounts, and the Lessor shall continue to be empowered to ask, demand, sue for, collect and receive any and all of such excess amounts and (c) each and all of the representations, 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, undertakings and agreements by Hartford National Bank and Trust Company, or for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement referred to in the first paragraph hereof, and this Assignment is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon said bank as trustee under said Trust Agreement, and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank, except for wilful misconduct or gross negligence, or against the Beneficiary under such Trust Agreement or on account of any representation, undertaking or agreement of the Lessor or such Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under any of it, making claim hereunder, may look to said Trust Estate for satisfaction of the same.

13. Execution. This Assignment may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Assignment is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

HARTFORD NATIONAL BANK AND TRUST COMPANY, as Trustee,

by

[Corporate Seal]

\_\_\_\_\_  
Trust Officer

Attest:

\_\_\_\_\_  
Corporate Trust Officer

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

by

[Corporate Seal]

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

Attest:

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





ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Assignment of Lease and Agreement is hereby acknowledged as of April 15, 1976.

CHICAGO AND ILLINOIS WESTERN RAILROAD  
COMPANY, as Lessee,

by

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

ILLINOIS CENTRAL GULF RAILROAD  
COMPANY, as Guarantor,

by

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