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JUN 29 1988 -4 00 PM

INTERSTATE COMMERCE COMMISSION

JUN 29 1988 -4 00 PM

INTERSTATE COMMERCE COMMISSION

Date JUN 29 1988 JUN 29 1988 -4 00 PM

Fee \$ 26.00 INTERSTATE COMMERCE COMMISSION

ICC Washington, D. C.

June 28, 1988

Grand Trunk Western Railroad Company  
Lease Financing Dated as of June 1, 1988  
10.23% Conditional Sale Indebtedness due July 2, 1999

Dear Ms. McGee:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Grand Trunk Western Railroad Company, for filing and recordation counterparts of the following documents:

1. Reconstruction and Conditional Sale Agreement dated as of June 1, 1988, among Mercantile-Safe Deposit and Trust Company, as Agent, Grand Trunk Western Railroad Company, as Builder, and Pacificorp Credit, Inc., as Vendee.
2. (a) Lease of Railroad Equipment dated as of June 1, 1988, between Grand Trunk Western Railroad Company, as Lessee, and Pacificorp Credit, Inc., as Vendee and  
*General*
- (b) Assignment of Lease and Agreement dated as of June 1, 1988, between Pacificorp Credit, Inc., as Vendee, and Mercantile-Safe Deposit and Trust Company, as Agent.

*Grand Trunk Western Railroad Company*  
*James D. Cooper*  
*James D. Cooper*

The names and addresses of the parties to the  
aforementioned agreements are as follows:

1. Agent:

Mercantile-Safe Deposit and Trust Company  
Two Hopkins Plaza  
Baltimore, Maryland 21203

2. Vendee-Buyer:

Pacificorp Credit, Inc.  
111 S.W. 5th Avenue  
Portland, Oregon 97204

3. Lessee-Builder-Seller:

Grand Trunk Western Railroad Company  
1333 Brewery Park Blvd.  
Detroit, Michigan 48207

Please file and record the documents referred to  
in this letter and index them under the names of the Agent,  
the Vendee-Buyer and the Lessee-Builder-Seller.

The reconstructed railroad equipment covered by  
the Reconstruction and Conditional Sale Agreement and the  
Lease are listed in Exhibit A attached hereto. The  
reconstructed railroad equipment bears the legend "OWNERSHIP  
SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE  
COMMERCE COMMISSION."

Enclosed is our check for \$26 for the required  
recordation fee. Please accept for recordation one counter-  
part of each of the enclosed agreements, stamp the remaining

counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

*Laurance V. Goodrich /cws*  
Laurance V. Goodrich  
as Agent for  
Grand Trunk Western  
Railroad Company

Noreta R. McGee, Secretary,  
Interstate Commerce Commission,  
Washington, D.C. 20423

encls.

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REGISTRATION NO. 5700 FILE 1230

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INTERSTATE COMMERCE COMMISSION

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[CS&M Ref. 6442-003]

LEASE OF RAILROAD EQUIPMENT

dated as of June 1, 1988

Between

GRAND TRUNK WESTERN RAILROAD COMPANY,  
as Lessee,

and

PACIFICORP CREDIT, INC.,  
as Lessor.

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

LEASE OF RAILROAD EQUIPMENT dated as of June 1, 1988, between GRAND TRUNK WESTERN RAILROAD COMPANY, a Michigan and Indiana corporation ("Lessee") and PACIFICORP CREDIT, INC., an Oregon corporation ("Lessor").

The Lessee and the Lessor are entering into a Reconstruction and Conditional Sale Agreement dated as of the date hereof ("RCSA") with MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity but solely as Agent (said bank as so acting, being hereinafter, together with its successors and assigns, called the "Vendor"), under a Participation Agreement dated as of the date hereof ("Participation Agreement") with the Lessor, the Lessee, Grand Trunk Corporation ("Guarantor") and the party named in Schedule A thereto (such party, together with its successors and assigns, being hereinafter called the "Investors"), wherein the Vendor has agreed to transfer to the Lessor its interest in the railroad equipment described in Schedule A hereto ("Equipment") after it has been reconstructed (pursuant to the terms of the RCSA).

The Lessee desires to lease all the units of the Equipment as are delivered, accepted and settled for under the RCSA ("Units"). The Lessor will assign certain rights in this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement dated as of the date hereof ("Lease Assignment") and the Lessee will consent thereto pursuant to the Consent and Agreement attached to the Lease Assignment ("Consent").

In consideration of the agreements hereinafter set forth, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject to all the rights and remedies of the Vendor under the RCSA:

SECTION 1. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the RCSA. The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the RCSA. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance and delivery ("Certificate of Acceptance"), whereupon such Unit shall be deemed to have

been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

SECTION 2. Rental. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 22 semiannual payments in arrears or in advance as shown on Schedule B hereto on January 2 and July 2 of each year commencing July 2, 1989. The semiannual rental payments shall be the percentage of the Purchase Price of each Unit then subject to this Lease set forth in Schedule B hereto opposite the appropriate semiannual rental payment date. The Lessee also agrees to pay the Lessor, as additional rentals, amounts equal to (i) any Investment Deficiency payable pursuant to the first paragraph of Section 9 of the Participation Agreement and (ii) any amounts payable pursuant to clauses (a) and (b) of the fourth paragraph of said Section 9, in each case on the dates such amounts are payable by the Lessor to the Vendor. The foregoing rental rates and the Casualty Value percentages set forth in Schedule C hereto are subject to adjustment as provided in the Indemnity Agreement (as defined in the Participation Agreement) and in Section 16 of the Participation Agreement. Notwithstanding the foregoing, except for the Lessor's obligation to pay interest on the CSA Indebtedness (as defined in the RCSA) on January 2, 1989, the rentals and Casualty Values will never be less than the amounts required to enable the Lessor to satisfy its obligations to pay the CSA Indebtedness and the interest thereon regardless of any limitation of liability set forth in the RCSA.

If and to the extent that (a) the Vendor shall not, pursuant to the first paragraph of Section 14 of the Participation Agreement, receive the funds due thereunder on January 2, 1989, the Lessee agrees to pay to the Lessor as additional rental for each Unit subject to this Lease, on January 2, 1989, an amount equal to the amount payable by the Vendee pursuant to the first paragraph of said Section 14, or (b) the Lessor does not pay the costs and expenses provided for in Section 11 of the Participation Agreement when due and payable and any claim is made therefor against the Vendor or the Investors, the Lessee agrees to pay the same; and the Lessee shall be entitled to an offset against subsequent rental payments due hereunder during the original term and any extended term of this Lease (to the extent such payments are not required to discharge the principal and interest on the CSA Indebtedness) of an amount equal to any amounts so paid by the Lessee plus interest thereon from the date of payment by the Lessee to

Lease shall be made by bank wire transfer of immediately available funds at, and not later than 12:00 noon local time, in the city where such payments are due.

SECTION 3. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of Sections 6, 9 and 12, shall terminate on January 2, 2000.

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 RCSA. If an event of default should occur under the RCSA, the Vendor may terminate this Lease (or rescind its termination), all as provided therein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under Section 11.

SECTION 4. Identification Marks. The Lessee, so long as this Lease shall remain in effect, will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION" or other appropriate markings 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 Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the RCSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend shall have been so marked on both sides thereof and will replace promptly any such legend which may be removed, obliterated, 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 by the Lessee in all public offices where this Lease and the RCSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to that effect and to 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 railroad properties 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.

SECTION 12. Renewal Option; Purchase Option.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect, by written notice delivered to the Lessor not less than 180 days prior to the end of the original term of this Lease (or, in the event the Lessee extends the term of this Lease for an additional one-year term, not less than 180 days prior to the end of that extended term) to extend the term of this Lease in respect of all, but not fewer than all, the Units then covered by this Lease for one or two additional one-year periods commencing on the scheduled expiration of the original term or the first extended term of this Lease, as the case may be, at a semiannual rental payable in arrears in semiannual payments, in an amount equal to the Fair Market Rental (as hereinafter defined). Such rental payments will be made on January 2 and July 2 in each year of the applicable extended term.

"Fair Market Rental" shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, (i) it shall be assumed that the Units are in the condition and repair in which they are required to be maintained pursuant to this Lease and that they are free and clear of all liens, claims and encumbrances, (ii) the value of the additions, modifications and improvements as to which Lessee retains title pursuant to Section 8 shall not be included and (iii) costs of removal from the location of current use shall not be a deduction from such value. If, within two months following receipt of the notice required by the preceding paragraph, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the relevant Units, such rental shall be determined in accordance with the foregoing definition by a qualified independent Appraiser as hereinafter defined. The term "Appraiser" shall mean such independent Appraiser as Lessor may select with the approval of Lessee, or, failing such approved selection, a panel of

three independent Appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two so selected; and if no such third Appraiser is so appointed within 15 days, either party may apply to have the appointment made by the American Arbitration Association and both parties shall be bound by such appointment. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee and the Lessee shall then either exercise or not exercise the option. The Lessor shall pay for its Appraiser, the Lessee shall pay for its Appraiser and the costs of the third Appraiser or arbitration shall be shared equally by the Lessor and the Lessee.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, at the end of the original term of this Lease, the Lessee may elect to purchase all but not less than all the Units then subject to this Lease at the lesser of the then "Fair Market Value" of such Units or an amount equal to 45% of the Purchase Price of such Units, by giving written notice to the Lessor not less than 180 days prior to the expiration of such term.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, at the end of any extended term of this Lease, the Lessee may elect to purchase all but not less than all the Units then subject to this Lease at the then "Fair Market Value" of such Units, by giving written notice to the Lessor not less than 180 days prior to the expiration of such term.

"Fair Market Value" shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's length transaction between an informed and willing purchaser (other than a lessee currently in possession) and an informed and willing seller under no compulsion to sell and, in such determination, the same assumptions applicable to the determination of Fair Market Rental, as set forth in the second paragraph of this Section, shall be applied except that the value of additions, modifications and improvements as to which Lessee retains title pursuant to Section 8 and which Lessee does not intend to remove if the Lessee returns the Units to the Lessor shall be included in the determination of Fair Market Value. If, within 30 days following receipt of the notice

required by the preceding paragraph, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the Units, such Fair Market Value shall be determined in accordance with the foregoing definition by the appraisal procedure set forth in the second paragraph of this Section. The Appraiser(s) shall be instructed to make the determination of Fair Market Value within a period of 30 days following appointment and shall promptly communicate such determination in writing to the Lessor and the Lessee. The Lessee shall then either exercise or not exercise its option.

SECTION 13. Return of Units upon Expiration of Term. After the expiration of the original or any extended term of this Lease, the Lessee will have 15 days to marshal the Units (without being required to make any payment to Lessor in respect of the Units) and the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Units to the Lessor upon such storage tracks of the Lessee as the Lessee may designate and permit the Lessor to store such Units on such tracks for a period not exceeding 120 days, and transport such Units at any time within such 120-day period, to one or more connecting carriers (or to Chicago, Illinois, in the event the Lessee no longer connects there) for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee such Units at any time during such 120 days. Lessee agrees to maintain insurance pursuant to Section 6 of the Lease on such Units during such storage period. 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 Section shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, and/or the applicable rules of any governmental agency or other organization with jurisdiction, and (iii) have removed therefrom by the Lessee without cost or expense to the Lessor all additions, modifications and improvements which the Lessee owns pursuant to Section 8 hereof. The assembling,

SCHEDULE B TO LEASE

Basic Lease Rental Rates

<u>DATE</u>	<u>PERCENTAGE OF PURCHASE PRICE</u>	<u>ADVANCE/ ARREARS</u>
7/2/89	6.81151	ARREARS
1/2/90	4.63013	ARREARS
7/2/90	4.03395	ARREARS
1/2/91	7.40769	ARREARS
7/2/91	3.86139	ARREARS
1/2/92	7.58026	ARREARS
7/2/92	3.67116	ARREARS
1/2/93	7.77048	ARREARS
7/2/93	3.46148	ARREARS
1/2/94	7.98016	ARREARS
1/2/94	11.33359	ADVANCE
7/2/94	2.65064	ADVANCE
1/2/95	11.07533	ADVANCE
7/2/95	2.90890	ADVANCE
1/2/96	10.29446	ADVANCE
7/2/96	3.68977	ADVANCE
1/2/97	12.68970	ADVANCE
7/2/97	1.29453	ADVANCE
1/2/98	13.30398	ADVANCE
7/2/98	0.68025	ADVANCE
1/2/99	13.88423	ADVANCE
7/2/99	0.10000	ADVANCE
	<u>141.11359</u>	

\* As defined in Article 3 of the RCSA.

SCHEDULE C TO LEASE

Casualty Value Percentages Schedule

<u>Casualty Payment Date</u>	<u>Percentage*</u>
7/2/89	105.60167
1/2/90	107.70058
7/2/90	108.33489
1/2/91	105.45069
7/2/91	105.75251
1/2/92	102.25643
7/2/92	102.34085
1/2/93	98.30653
7/2/93	98.30653
1/2/94	93.67342
7/2/94	84.99047
1/2/95	84.99047
7/2/95	76.13486
1/2/96	75.44568
7/2/96	67.00025
1/2/97	65.15951
7/2/97	53.81677
1/2/98	54.02078
7/2/98	41.75649
1/2/99	42.30137
7/2/99	29.15221
1/2/00	30.00000

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\*Expressed as a percentage of Purchase Price.