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RECORDATION NO. \_\_\_\_\_ FILE 1988

CRAVATH, SWAINE & MOORE AUG 23 1988-2 05 PM

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INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 5785 FILE 1988

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2 HONEY LANE, CHEAPSIDE  
ANDON EC2V 8BT, ENGLAND  
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FILED IN FILE OF  
AUG 23 1 55 PM '88  
UNIT OPERATING UNIT

No. 8-236A0361 5785 B

Date AUG 23 1988

Fee \$ 26.00

ICC Washington, D.C. August 23, 1988

Trailer Train Company

Lease Financing Dated as of August 15, 1988

10.10% Conditional Sale Indebtedness Due February 1, 2004

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 Trailer Train Company, for filing and recordation, counterparts of each of the following documents:

1. (a) Conditional Sale Agreement dated as of August 15, 1988, between Trailer Train Company, as Seller, and Meridian Trust Company, as Trustee; and

(b) Agreement and Assignment dated as of August 15, 1988, between Trailer Train Company, as Seller, and Mercantile-Safe Deposit and Trust Company, as Agent.

2. (a) Lease of Railroad Equipment dated as of August 15, 1988, between Trailer Train Company, as Lessee, and Meridian Trust Company, as Trustee; and

(b) Assignment of Lease and Agreement dated as of August 15, 1988, between Meridian Trust Company, as Trustee, and Mercantile-Safe Deposit and Trust Company, as Agent.

*Handwritten signatures:*  
C. J. Pessirillo  
A. J. Pessirillo

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. Trustee:

Meridian Trust Company  
35 North Sixth Street  
Reading, Pennsylvania 19601

3. Seller-Lessee:

Trailer Train Company  
101 North Wacker Drive  
Chicago, Illinois 60606

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

The equipment covered by the aforementioned  
documents is listed on Exhibit A attached hereto.

The equipment bears the legend "Ownership Subject  
to a Security Agreement Filed with The Interstate Commerce  
Commission".

There is also enclosed a check for \$26.00 payable  
to the Interstate Commerce Commission, representing the fee  
for recording the Conditional Sale Agreement and related  
Agreement and Assignment (together constituting one  
document), and the Lease of Railroad Equipment and related  
Assignment of Lease and Agreement (together constituting one  
document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments and this transmittal letter for your files. It is requested that the remaining counterparts of the documents be delivered to the bearer of this letter.

Very truly yours,

*Laurance V. Goodrich/cws*

Laurance V. Goodrich  
as Agent for Trailer Train  
Company

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

Encls.

TRAILER TRAIN COMPANY  
ANNEX B TO CONDITIONAL SALE AGREEMENT

<u>Builder/Car Type</u>	<u>Contract No.</u>	<u>Number of Cars</u>	<u>Car Numbers (Inclusive)</u>	<u>Estimated Unit Price</u>	<u>Total</u>	<u>Estimated Month of Delivery</u>
Thrall Car Manufacturing Co.:						
Center-beam flatcars - TTZX ✓	T-5A87-T	16	86707, 86774, 86776, 86790 - 86792 86797 - 86806	\$ 42,200	\$ 675,200	January 1988
	T-4087-T	100	86807 - 86906	44,500	4,450,000	Sept. - Nov. 1988
Bethlehem Steel Corp.:						
Five-platform articulated IMPACK flatcars for carrying trailers - TTLX ✓	T-6087-B	200	60200 - 60399	123,345	24,669,000	March - Aug. 1988
Five-platform articulated Spine flatcars for carrying containers - NPTX ✓	T-1088-B	60	67090 - 67149	96,383	5,782,980	Sept. - Oct. 1988
Gunderson, Inc.:						
Center-beam flatcars - TTZX ✓	T-4087-F	25	83800 - 83824	48,687	1,217,175	June 1988
Trinity Industries, Inc.:						
Five-platform articulated Spine flatcars for carrying containers - NPTX ✓	T-5A87-P	40	66060 - 66099	105,117	4,204,680	July - Nov. 1988
Single-platform Front Runner flatcars for carrying trailers - TTUX ✓	T-1088-P	65	145595-145659	30,780	2,000,700	December 1988
		<u>506</u>			<u>\$42,999,735</u>	

**Interstate Commerce Commission**  
Washington, D.C. 20423

8/23/88

OFFICE OF THE SECRETARY

Laurance V. Goodrich  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/23/88 at 2:05pm, and assigned recordation number(s). 15785, 15785-A, 15785-B & 15785-C.

Sincerely yours,



Secretary

Enclosure(s)

1 5785  
REGISTRATION NO. FIRM 123

AUG 23 1988 2 05 PM

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INTERSTATE COMMERCE COMMISSION [CS&M Ref: 2164-804]

CONDITIONAL SALE AGREEMENT

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Dated as of August 15, 1988

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between

MERIDIAN TRUST COMPANY,  
not in its individual capacity  
but solely as Trustee for the Owner,

and

TRAILER TRAIN COMPANY

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## Conditional Sale Agreement

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\* This Table of Contents has been included in this document for convenience only and does not form a part of or affect any construction or interpretation of this document.

CONDITIONAL SALE AGREEMENT dated as of August 15, 1988, between MERIDIAN TRUST COMPANY, acting not in its individual capacity but solely as Trustee (together with its successors and assigns, "Trustee") acting under a Trust Agreement dated as of the date hereof ("Trust Agreement") with TECO INVESTMENTS, INC., a Florida corporation ("Owner"), and TRAILER TRAIN COMPANY, a Delaware corporation (in such capacity, "Seller" or "Vendor", as the context may require, all as more particularly set forth in Article 1 hereof).

WHEREAS the Seller agrees to sell and deliver to the Trustee, and the Trustee agrees to purchase, the railroad equipment described in Annex B hereto which is delivered and accepted hereunder ("Equipment");

WHEREAS the Trustee is entering into a lease of the Equipment with Trailer Train Company (in such capacity, "Lessee") in substantially the form annexed hereto as Annex C ("Lease"); and

WHEREAS Mercantile-Safe Deposit and Trust Company ("Assignee" or "Vendor") is acting as agent for certain investors ("Investors") pursuant to the Participation Agreement dated as of the date hereof ("Participation Agreement"), among the Assignee, the Lessee, the Owner, the Trustee and the Investors;

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

#### ARTICLE 1

##### Assignment; Definitions

The parties hereto contemplate that the Trustee will furnish that portion of the Purchase Price (as defined in Article 4 hereof) of the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase

Price shall be paid to the Seller by the Assignee pursuant to an Agreement and Assignment ("CSA Assignment") dated as of the date hereof between the Seller and the Assignee, as agent.

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the Seller, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights; and the term "Seller", whenever used in this Agreement, means, both before and after any such assignment, the Seller.

In case of such assignment, the Trustee will assign to the Vendor, as security for the payment and performance of all the Trustee's obligations hereunder, substantially all right, title and interest of the Trustee in and to the Lease pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto ("Lease Assignment") and the Lessee shall consent thereto pursuant to a Consent and Agreement in substantially the form attached to Annex D ("Consent").

## ARTICLE 2

### Construction and Sale

Pursuant to this Agreement, the Seller shall sell and deliver the Equipment to the Trustee, and the Trustee will purchase from the Seller and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among such Seller, the Owner, the Trustee and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, required by the Association of American Railroads reasonably interpreted as then being applicable to each such unit of Equipment.

### ARTICLE 3

#### Inspection and Delivery

The Seller will deliver the units of Equipment to the Trustee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Trustee), freight, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; provided, further, that the Trustee shall have no obligation to accept delivery of any unit of Equipment after September 30, 1988, if the aggregate base Purchase Price shown in Annex B of all Equipment delivered and to be delivered after September 30, 1988, would exceed 66.6% of such aggregate base Purchase Price of the Equipment delivered and accepted on or before September 30, 1988; and provided further, that the Seller shall have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (d) of Article 15 hereof or the occurrence of any event of default (as described in Article XV hereof), or any event which, with the lapse of time and/or demand, could constitute such an event of default. The Seller agrees not to deliver any unit of its Equipment hereunder (a) until it receives notice from the Assignee and the Trustee, respectively, that the conditions contained in Sections 7 and 8, respectively, of the Participation Agreement have been met and (b) following receipt of written notice from the Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, until such time as such written notice may be canceled by a further written notice.

Notwithstanding the next succeeding paragraph, any Equipment not delivered as a result of the first paragraph of this Article 3, and any Equipment not delivered and accepted hereunder on or prior to December 30, 1988, by reason of failure of condition as provided in the next preceding paragraph or causes set forth in the next succeeding paragraph or otherwise, shall be excluded from this Agreement, and the Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an

agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

The Seller's obligation as to the time of delivery set forth in Annex B is subject, however, to delays resulting from causes beyond the Seller's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors. The occurrence of any of the foregoing shall not extend the final date for the delivery and acceptance of any Equipment as specified above.

The Equipment shall be subject to inspection and approval by the authorized inspectors of the Trustee (who may be employees of the Lessee) and the Seller shall grant to such authorized inspectors reasonable access to the Equipment. The Seller will inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Seller. Each unit shall be presented to an inspector of the Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Trustee (who may be an employee of the Lessee) shall execute and deliver to the Seller a certificate of acceptance ("Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Trustee and are marked in accordance with Article 9 hereof; provided, however, that the Seller shall not thereby be relieved of its warranties referred to in Article 13 hereof.

On delivery and acceptance as aforesaid of each such unit of its Equipment at the place specified for delivery, the Seller, in its capacity as seller of the Equipment, shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Seller shall not thereby be relieved of its warranties referred to in Article 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Trustee of any unit of Equipment excluded from this Agreement pursuant to the first

paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Trustee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Trustee any liability, obligation or responsibility with respect thereto.

#### ARTICLE 4

##### Purchase Price and Payment

The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Seller, the Trustee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the Seller's invoice or invoices delivered to the Trustee (which shall include any applicable freight charges and sales taxes) and, if the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Trustee (such invoice or invoices being hereinafter called "Invoices"). If on the date of delivery and acceptance of any unit or units of Equipment hereunder, the aggregate Purchase Price of such unit or units and all units theretofore delivered and accepted hereunder would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as the Owner may at its option agree to prior to delivery of any unit or units of such Equipment that, but for such agreement, would be excluded from this Agreement), the Seller (and any assignee of the Seller) and the Trustee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Trustee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than such Maximum Purchase Price (or such higher amount as aforesaid) and the Trustee shall take such other steps, including the execution of instruments of transfer, as may be reasonably requested by the Seller or the Lessee for the purpose of acknowledging and perfecting the respective interests of the Seller and the Lessee in any unit of Equipment so excluded, and the Trustee shall have no further obligation or liability in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of Equipment delivered to and accepted by the Trustee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called "Group"). The term "Closing Date" with respect to any Group shall mean such date (not earlier than August 18, 1988, and not later than December 30, 1988, such later date being herein called the "Cut-Off Date"), occurring not more than five business days following presentation by the Seller to the Trustee of the Invoices and of the Certificate or Certificates of Acceptance for such Equipment and written notice thereof by the Seller to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Trustee and the Assignee at least four business days prior to the Closing Date designated therein. The term "business day" as used herein means any calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Baltimore, Maryland, Chicago, Illinois, New York, New York, Tampa, Florida, or the city and state in which the Trustee maintains its principal place of business are authorized or obligated to remain closed. The closing on each Closing Date shall take place at the offices of Cravath, Swaine & Moore, New York, New York.

The Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby agrees to pay in immediately available funds to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group  
(i) an amount equal to 23.32865% of the aggregate Purchase Price of such Group plus (ii) if the Owner exercises its option pursuant to the first paragraph of this Article 4, the amount, if any, by which  
(x) 76.67135% of the Purchase Price of the Equipment for which settlement has theretofore and is then being made, as set forth in the Invoice or Invoices therefor (said invoiced prices being herein called the "Invoiced Purchase Prices"), exceeds (y) the Maximum CSA Indebtedness specified in Item 5 of Annex A and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii);  
and

(b) in 15 installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with

respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph ("CSA Indebtedness") shall be payable in the installments and on the dates shown in Schedule I hereto commencing February 1, 1990, to and including February 1, 2004 (or if any such date is not a business day, on the next succeeding business day). The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 10.10% per annum. Such interest shall be payable, to the extent accrued, on February 1, 1989, and on each February 1 and August 1 to and including February 1, 2004. The installments of principal payable on each payment date shall be calculated so that the amount and allocation of principal and interest payable on each payment date shall be substantially in proportion to the amount and allocation of principal and interest on such payment date set forth in Schedule I hereto and the aggregate of such installments of principal will completely amortize the remaining CSA Indebtedness. The Trustee will furnish to the Vendor and the Lessee promptly after the last 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 except that interest payable on the first interest payment date hereunder shall be calculated on the basis of a year of 365 days.

The Trustee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid in respect of the Equipment after the same shall have become due and payable pursuant to the terms hereof at a rate 1% higher than the rate applicable to timely payments.

All payments provided for in this Agreement shall be made in immediately available funds 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. If any date for a payment hereunder is not a business day, the payment otherwise payable on such date shall then be payable on the following business day, and no interest shall be payable for the period from and after the scheduled date for payment thereof to such following

business day. Except as provided in Article 7 hereof, the Trustee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles 15 and 16 hereof but without limiting the effect of Article 21 hereof, it is understood and agreed by the Vendor that the liability of the Trustee for all payments to be made by it under and pursuant to this Agreement in respect of the Equipment and for all performance obligations (other than the payments called for by subparagraph (a) of the third paragraph of this Article and as provided in the proviso to the last paragraph of Article 12 hereof) under and pursuant to this Agreement in respect of the Equipment, shall not exceed an amount equal to, and shall be payable only out of, the income and proceeds from the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if an event of default shall have occurred under Article 15 hereof and while it shall be continuing so much of the following amounts as are indefeasibly received by the Trustee (or any assignee of the Trustee) at any time after any such event of default and during the continuance thereof: (a) all amounts of rental payable pursuant to the Lease and all amounts in respect of Casualty Occurrences paid for or with respect to the Equipment pursuant to the Lease and (b) any and all other payments or proceeds received pursuant to the Lease (except sums which by the express terms of the Lease are payable directly to the Owner or the Trustee pursuant to Sections 6, 9 and 19 of the Lease) or 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) or otherwise payable to the Trustee pursuant to the Lease as are indefeasibly received by the Trustee or any assignee of the Trustee and as shall equal the portion of the CSA Indebtedness due and payable on the date such amounts so received were required to be paid pursuant to the Lease or as shall equal any other payments (including payments in respect of Casualty Occurrences as defined in Article 7 hereof) then due and payable under this Agreement; 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 Trustee or any assignee of the Trustee prior

to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness and/or interest thereon due and payable by the Trustee on the date on which amounts received by the Trustee or any assignee of the Trustee were required to be paid pursuant to the Lease or which exceeded any other payments including payments in respect of Casualty Occurrences due and payable under this Agreement at the time such amounts were payable under the Lease. The Vendor agrees that if it obtains a judgment against the Trustee for an amount in excess of the amounts payable by the Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount (and, if legally permitted, will cause the docket to reflect the limitations on its right to execute under such judgment), it will not bring suit against the Trustee for any sums in addition to the amounts payable by the Trustee pursuant to said limitations (or obtain a judgment, order or decree against the Trustee for any relief other than the payment of money) except as may be required by applicable rules of procedure to enforce against the Equipment, the Lessee and the Lease (rather than against the Trustee personally), by appropriate proceedings against the Trustee at law or in equity or otherwise, the obligation to make the payments to be made pursuant to this Agreement or any other payments or performance obligations due to the Vendor under this Agreement and it will not seek any deficiency judgment after completion of execution. Nothing contained herein limiting the liability of the Trustee shall derogate from the right of the Vendor to proceed against the Equipment or the Lessee as provided for herein or in the Lease or the Consent for the full unpaid Purchase Price of the Equipment and interest thereon and any and all other payments and obligations under this Agreement.

## ARTICLE 5

### Security Interest in the Equipment

The Vendor shall and hereby does retain a security interest in the Equipment until the Trustee 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 Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Trustee and the Lessee as provided in this Agreement and the Lease; it being understood that, subject thereto, title to

the Equipment (upon delivery and acceptance thereof) shall pass to and remain in the Trustee. Accordingly, after all payments due or to become due hereunder in respect of the Equipment shall have been completed and fully made to or for the account of the Vendor, and the Trustee shall have performed all its other obligations hereunder (without regard to the provisions of the last paragraph of Article 4 hereof or Article 21 hereof), (a) such payments shall be deemed to represent the discharge in full of the Vendor's security interest in the Equipment at such time, (b) any moneys remaining in the hands of the Vendor after providing for all outstanding amounts due and payable hereunder shall be paid to the Trustee, and (c) the Vendor shall execute for record in public offices such instrument or instruments in writing as shall be reasonably requested by the Trustee in order to discharge of record the security interest of the Vendor in, and to make clear upon public records the Trustee's full title to, the units of the Equipment under the laws of any jurisdiction; provided, however, that until that time a security interest in the Equipment shall be and remain in the Vendor, notwithstanding the possession and use thereof by the Trustee pursuant to the terms of this Agreement.

The Trustee 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 certificates within a reasonable time after written demand by the Trustee.

The term "Equipment" as used in this Agreement shall not include any special devices, racks (including, but not limited to, automobile-carrying superstructures) or assemblies at any time attached to any unit of Equipment, the cost or purchase price of which is not included in the Purchase Price of the Equipment or the title to which is in a person other than the Trustee. The Trustee and the Vendor recognize that such special devices, automobile-carrying superstructures and other assemblies may be attached to the Equipment and may be owned and financed by persons other than the Trustee or the Lessee. The Vendor expressly acknowledges, for the purpose of assurance of any such persons and for the purpose of inducing attachment of such special devices, automobile-carrying superstructures and other assemblies to the Equipment, that the Vendor has no rights therein and that such persons may, at their own cost

and expense, upon written notice to the Trustee, the Vendor and the Lessee, remove such special devices, automobile-carrying superstructures and other assemblies from the Equipment.

## ARTICLE 6

### Taxes

Whether or not any of the transactions contemplated hereby are consummated, the Trustee agrees to pay, and to indemnify and hold the Vendor harmless from, all Taxes (as defined in Section 6 of the Lease) excluding, however: (i) Taxes of the United States or of any state or political subdivision thereof and of any foreign country or of any subdivision thereof, imposed on or measured by the net income (including, without limitation, alternative minimum taxes and taxes measured by tax preference items) or excess profits of the Vendor, or on or measured by capital, stock value or net worth of the Vendor, in the case of franchise or doing business taxes; (ii) any Taxes imposed on or measured by any fees or compensation received by the Vendor; (iii) Taxes which are imposed on or measured by the net income of the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Trustee has not agreed to pay or indemnify against pursuant to this Article 6; (iv) any taxes imposed on the Vendor resulting from the gross negligence or willful misconduct of the Vendor in connection with the performance of, or failure to perform, any requirement imposed on it under any provision of any of the Documents or with respect to any return otherwise required to be filed by the Vendor without regard to the transactions contemplated by the Documents, in connection with the preparation or filing of tax returns, the payment of its taxes or the conduct of any proceeding in respect thereof, but only to the extent not attributable to the failure of the Trustee to notify the Vendor of its obligations to prepare and file returns, reports or statements in respect of Taxes indemnified pursuant to this Article or to provide any information necessary for the preparation of filing of such returns, reports or statements or the conduct of such proceedings or to otherwise perform its duties and responsibilities pursuant to the Documents including, without limitation, the obligation to make payments hereunder; (v) any Taxes imposed on the Vendor as a direct result of a

voluntary transfer or other voluntary disposition by the Vendor or any transfer or disposition by the Vendor resulting from bankruptcy or other proceedings for the relief of debtors in which the Vendor is the debtor, whether voluntary or involuntary, or other action of creditors of the Vendor, of any interest in the CSA, the Lease or any unit of Equipment unless in each case such transfer or disposition is in connection with a Casualty Occurrence or is pursuant to the exercise of any remedies in connection with an Event of Default under the Lease; (vi) any Taxes imposed with respect to events occurring or matters arising after the later of (a) the satisfaction of the CSA Indebtedness, or (b) the expiration or earlier termination of the term of the CSA, except to the extent directly attributable to a failure of the Trustee to fully discharge its obligations under the CSA; and (vii) any Taxes which are included in the Purchase Price, provided that such Taxes have been remitted to the proper taxing authorities; provided, however, that the Trustee shall not be required to pay any Taxes during the period the Trustee or the Lessee may be contesting the same in the manner provided in the next paragraph.

If claim is made against the Vendor for any Taxes indemnified against under this Article 6, the Vendor shall promptly notify the Trustee. If requested by the Trustee in writing, the Vendor shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Trustee contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Trustee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Vendor; provided, however, that no proceeding or actions relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Vendor in any such proceeding or action) without the prior written consent of the Vendor such consent not to be unreasonably withheld (provided that it is understood that Vendor may impose reasonable conditions relating to the commencement and conduct of such contest as a condition to granting its consent). If the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Trustee in connection with any such contest or an amount representing

interest thereon, the Vendor shall pay the Trustee the amount of such refund or interest net of expenses; provided, however, that no event of default set forth in Article 15 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

Any payment which the Trustee shall be required to make to or for the account of the Vendor with respect to any Tax which is subject to indemnification under this Section shall (A) reflect any current savings of the Vendor resulting by way of deductions, credits or other tax benefits attributable to the payment (or accrual) of such indemnified Tax unless such deduction or credit or other tax benefit was taken into account in computing the payment which the Trustee is required to make with respect to any Tax which is subject to indemnification under this Section by way of a deduction or credit against such Tax and (B) include the amount necessary to hold the Vendor harmless on an after-tax basis from the amount of any federal, state, local or foreign taxes required to be paid by the Vendor as the result of any such payment. If, by reason of any Tax payment made to or for the account of the Vendor by the Trustee pursuant to this Section the Vendor subsequently realizes a tax benefit, savings, deduction or credit (including foreign tax credit) not previously taken into account in computing such payment, the Vendor shall promptly pay to the Trustee an amount equal to the sum of (I) the actual net reduction in Taxes, if any, realized by the Vendor which is attributable to such deduction or credit and (II) the actual reduction in any Taxes realized by the Vendor as the result of any payment made by the Vendor pursuant to this sentence; provided, however, that the Vendor shall not be obligated to make payment pursuant to this Section to the extent that the amount of such payment would exceed (x) the amount of all prior payments made by the Trustee pursuant to this Section, less (y) the amount of all prior payments by the Vendor to the Trustee hereunder, and any such excess shall be carried forward and reduce any subsequent obligations of the Trustee to indemnify the Vendor. For purposes of the preceding sentence, items of foreign tax of the Vendor shall be deemed to be utilized by the Vendor as credits or deductions for any taxable year in accordance with the following priorities:

First, all available foreign taxes other than those described in the next two clauses of this sentence;

Second, all available foreign taxes attributable to a leasing transaction entered into by the Vendor with a lessee other than the Trustee and for which the Vendor was indemnified or held harmless by anyone in such lease transaction other than a lease transaction described in the next clause of this sentence on a pari passu basis with any foreign tax credits attributable to any tax payment made to or for the account of the Vendor pursuant to this Section; and

Third, all available foreign taxes attributable to a leasing transaction entered into by the Vendor for which the Vendor was indemnified or held harmless by anyone in such lease transaction and in which the tax credit ordering rules applicable to such indemnification specifically provide that foreign taxes attributable to such transaction shall be taken in account last (and not on a pari passu basis as hereinabove stated).

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

The Trustee may delegate its obligations under this Article to the Lessee pursuant to the Lease.

All of the obligations of the Trustee under this Article 6 shall survive and continue, notwithstanding payment in full of all amounts due under this Agreement, but only with respect to periods included in the term of this Agreement.

## ARTICLE 7

### Maintenance; Casualty Occurrences

The Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment (including any Parts installed on or replacements made to any unit and considered an accession thereto as provided in Section 9 of

the Lease) in good operating order, repair and condition, ordinary wear and tear excepted.

In the event that any unit of Equipment shall suffer a Casualty Occurrence (as defined in Section 7 of the Lease) during the term of this Agreement, the Trustee shall, promptly after it shall have received notice from the Lessee or otherwise been informed that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the Casualty Payment Date (as defined in Section 7 of the Lease) next succeeding such notice or information, the Trustee shall, subject to the limitations contained in the last paragraph of Article 4 hereof, pay to the Vendor an amount equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of such Casualty Payment Date. The Trustee 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, if any, on and of the CSA Indebtedness due on such date) to prepay the installments of the CSA Indebtedness (ratably in accordance with the unpaid balance of each such installment) together with all unpaid and accrued interest thereon, and the Vendor will promptly furnish to the Trustee and the Lessee a revised schedule of payments of principal and interest with respect to the CSA Indebtedness thereafter to be made. In the event of the requisition of use by any governmental authority of any unit of the Equipment not constituting a Casualty Occurrence, all of the Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Trustee 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 Trustee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Trustee, will execute and deliver to the Trustee, at the expense of the Trustee, an appropriate instrument confirming the release of the Vendor's security interest in such unit, in recordable form, in order that the Trustee may make clear upon the public records the full title of the Trustee to such unit.

Any insurance proceeds or condemnation payments received and retained by the Vendor in respect of units of

Equipment suffering a Casualty Occurrence shall be deducted from the amounts payable by the Trustee to the Vendor in respect of Casualty Occurrences pursuant to this Article. If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence either after the Trustee shall have made payments pursuant to this Article without deduction for such insurance proceeds or condemnation payments, in excess of the Casualty Value (after taking into account payments by the Trustee under this Article) of such units, the Vendor shall, provided no event of default hereunder shall have occurred and be continuing, promptly pay such insurance proceeds or condemnation payments to the Trustee. All insurance proceeds or condemnation payments or such excess received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Trustee upon proof satisfactory to the Vendor that the damage to such unit or units in respect of which such proceeds were paid has been repaired, provided no event of default hereunder shall have occurred and be continuing.

The "Casualty Value" of any unit of Equipment on any Casualty Payment Date shall be deemed to be an amount computed by multiplying the unpaid principal amount of the CSA Indebtedness outstanding on such date (after giving effect to any payment in respect thereof due on such date pursuant to Article 4 hereof) by a fraction of which the numerator shall be the Purchase Price of such unit and the denominator shall be the Purchase Price of all units (including such unit) of Equipment subject to this Agreement on such date.

The Trustee shall at all times while this CSA is in effect maintain or cause to be maintained, at its own expense, the insurance described in Section 7 of the Lease.

## ARTICLE 8

### Reports and Inspections

The Trustee will furnish to the Vendor, on or before May 1 in each year, commencing with the calendar year 1989 an accurate statement to the effect set forth in Section 8 of the Lease. The Vendor shall have the right by its agents to inspect the Equipment and the records of the Trustee with respect thereto at such reasonable times as the Vendor may request.

## ARTICLE 9

### Marking of Trust Equipment

The Trustee will cause each unit of Equipment to be kept numbered and marked as provided in Section 5 of Lease.

The Trustee will not place or permit any unit of Equipment 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 cause to be replaced promptly any such markings which may be removed, defaced, obliterated or destroyed. The Trustee shall not change, or permit to be changed, the identifying numbers to be substituted therefor, except upon compliance with the condition of Section 5 of the Lease.

Except as above provided, the Trustee will not allow the name of any person to be placed on the units of Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Trustee may permit the Equipment to be lettered with the names, trademarks, initials or other insignia customarily used by the user of such Equipment or its affiliates.

## ARTICLE 10

### Compliance with Laws and Rules

During the term of this Agreement, the Trustee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitations, with respect to the use, maintenance and operation of the Equipment) with all Applicable Laws (as defined in Section 9 of the Lease) and in the event that such Applicable Laws require any alteration, replacement, addition or modification of or to any part of any unit of the Equipment, the Trustee will, or will cause the Lessee to, conform therewith at no expense to the Vendor; provided, however, that the Trustee or the Lessee may, in good faith, contest the validity or application of any such Applicable Laws in any reasonable manner which does not, in the reasonable opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

## ARTICLE 11

### Possession of Equipment

So long as no event of default has occurred and is continuing hereunder, the Trustee shall be entitled to the possession and use of the Equipment and also to enter into the Lease and to permit the use of the Equipment as provided in the Lease.

The Trustee hereby agrees that the Lease, and the rights of the Trustee to receive rentals and other payments due and to become due thereunder (except for payments payable directly to the Owner or the Trustee pursuant to Sections 6, 9 and 19 of the Lease), shall be subject and subordinate to this Agreement and to the rights of the Vendor hereunder and under the Consent.

Except as permitted by the Trust Agreement, the Trustee will not sell, assign or transfer its rights under this Agreement in respect of the Equipment or, except as provided in this Article 11, transfer the right to possession of any unit of Equipment. The Trustee will not amend or consent to any change in the Trust Agreement except as specifically provided therein.

## ARTICLE 12

### Discharge of Liens

The Trustee will pay or discharge any and all sums claimed by any party from, through or under the Trustee, the Owner or their 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, or the "income and proceeds from the Equipment" (as defined in Article 4 hereof), 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 reasonable opinion of the Vendor, adversely affect the interest of the Vendor in the Equipment, its interest in the income and proceeds from 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.

The obligations of the Trustee under this Article are subject to the limitations contained in the last paragraph of Article 4 and in Article 21 hereof; provided, however, that the Trustee will pay or discharge any and all taxes, claims, liens, charges or security interests claimed by any party from, through or under the Trustee or the Owner, not arising out of the transactions contemplated hereby (but including all income taxes arising out of the receipt of rentals and other payments under the Lease or the Participation Agreement and any other proceeds from the Equipment) 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 reasonable opinion of the Vendor, materially adversely affect the security interest of the Vendor in the Equipment, its interest in the income and proceeds from the Equipment, or otherwise under this Agreement.

#### ARTICLE 13

##### Indemnity

The Trustee shall pay, and shall protect, indemnify and hold the Vendor, any assignee thereof and their respective successors, assigns, principals, agents and servants ("Indemnified Persons"), harmless from and against any and all Indemnified Matters (as defined in Section 9 of the Lease) except, however, in the case of the Seller, (i) any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort by the Seller or out of any breach of warranty or failure to perform any covenant hereunder by the Seller and (ii) any matter covered by the manufacturers' warranties of material workmanship and patent indemnification referred to in Item 3 of Annex A hereto. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Trustee may and, upon such Indemnified Person's request will, at the Trustee's expense, resist and defend such action, suit or proceeding, or cause the

same to be resisted or defended by counsel selected by the Trustee and approved by such Indemnified Person and, in the event of any failure by the Trustee to do so, the Trustee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Trustee is required to make any payment under this Article, the Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes), shall be equal to the amount of such payment. The Vendor and the Trustee each agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article by the Trustee, and provided that no event of default set forth in Article 15 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person other than the Trustee or the Lessee as a result of any Indemnified Matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease shall be paid over to the Trustee to the extent necessary to reimburse the Trustee for indemnification payments previously made in respect of such matter.

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

The Trustee 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.

The Seller represents and warrants to the Trustee and the Assignee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Seller will have good and marketable title to such unit, free and clear of all claims, liens, security interests, and other encumbrances of any nature except only the rights created by this Agreement, the CSA Assignment, the Lease and the Lease Assignment.

The Seller represents that it is not entering into this Agreement, or entering into any assignment of this Agreement, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

The agreement of the parties relating to the manufacturers' warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Annex A hereto.

#### ARTICLE 14

##### Assignments

The Trustee will not (a) transfer the right to possession of any unit of Equipment except as provided in Article 11 hereof or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement or the Lease without the prior written consent of the Vendor, except as provided in the Trust Agreement.

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 Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time; provided, however, that if no event of default or Event of Default or any event which with lapse of time or notice or both would constitute such an event of default of Event of Default hereunder or under the Lease, as the case may be, has occurred and is continuing, the Vendor may only make such an assignment to the Assignee or to a domestic bank, trust company or other lending institution with a combined capital and surplus of not less than \$50,000,000. No such assignment shall subject any assignee to, or relieve the Seller

from, any of the obligations of the Seller to deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 13 hereof, or relieve the Trustee of its respective obligations to the Seller contained in Articles 2, 3, 4, 6, and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment, the assignor shall give written notice to the Trustee and the Lessee, 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 Trustee of the notification of any such assignment, all payments thereafter to be made by the Trustee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Trustee recognizes that this Agreement will be assigned to the Assignee as provided in the CSA Assignment. The Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Seller with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Seller with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Trustee or the Lessee by the Seller. Any and all such obligations, however arising, shall be and remain enforceable by the

Trustee or the Lessee, as the case may be, against and only against the Seller.

## ARTICLE 15

### Defaults

In the event that any one or more of the following events of default shall occur to wit:

(a) the Trustee shall, without regard to any limitation of liability contained in Article 4 or 21 hereof, default in the payment of the principal of or interest on the CSA Indebtedness or in the payment in respect of a Casualty Occurrence under Article 7 hereof, and such default shall continue for more than 5 business days after the same shall become due, or

(b) the Trustee shall, without regard to any limitation of liability contained in Article 4 or 21 hereof, fail or refuse to comply with any other of the terms and covenants of this Agreement or the Lease Assignment on its part to be kept and performed (except as provided in clause (d) of this Article), or to make provision satisfactory to the Vendor for such compliance, and such noncompliance shall continue for more than 30 days after the Vendor shall have demanded in writing performance thereof, or

(c) the Trustee, except as herein authorized or contemplated, shall make or suffer any unauthorized transfer or sublease (including, for the purpose of this clause, contracts for the use thereof) of any unit of Equipment and shall fail or refuse either (i) to cause such transfer or sublease to be cancelled by agreement of all parties having any interest therein or recover possession of such unit of Equipment, as the case may be, within 30 days after the Vendor shall have demanded in writing such cancelation or recovery of possession, or (ii) within said 30 days to deposit with the Vendor a sum in cash equal to the then Casualty Value (as defined in Article 7 hereof) of such unit of Equipment (any sum so deposited to be returned to the Trustee upon the cancelation of such transfer or sublease or the recovery of possession by the Trustee of such unit of Equipment), or

(d) any proceeding shall be commenced by or against the Trustee or the Owner for any relief 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 proceeding which does not permit any readjustment of the obligations hereunder or under the Lease, the Lease Assignment or the Participation Agreement or the Trust Agreement of the Trustee or the Owner, as the case may be) and, unless such proceeding 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 such obligations shall not be 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 Trustee or the Owner, as the case may be, or for its or their property in connection with any such proceeding in such manner that such obligations have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceeding shall have been commenced; or

(e) any Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease unless the Trustee shall have cured such Event of Default and the corresponding event of default hereunder within the later to occur of (1) the expiration of all applicable grace periods, or (2) the fifth day following the giving of written notice to the Trustee that such Event of Default has occurred and is continuing; provided, however, that if more than four Events of Default or if more than two consecutive Events of Default shall have occurred under clause (A) of Section 10 of the Lease which corresponds to an event of default under Article 15(a) hereof, any such Event of Default shall be an event of default hereunder whether or not the corresponding event of default hereunder is cured;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Trustee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare ("Declaration of Default") the entire unpaid CSA 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 the CSA 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. In addition, if the Trustee does not pay the entire unpaid CSA Indebtedness, together with the interest thereon accrued and unpaid to the date of payment within 15 days of such notice of Declaration of Default, the Vendor may cause the Lease immediately to terminate (and the Trustee acknowledges the right of the Vendor to terminate the Lease) but without affecting the indemnities which by the provisions of the Lease survive its termination. Upon a Declaration of Default, subject to Articles 4 and 21 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Trustee, subject to the provisions of Articles 4 and XXI hereof, wherever situated. The Trustee shall promptly notify the Vendor and each Investor of any event of which any of its officers has actual knowledge which constitutes, or with the giving of notice and/or lapse of time would 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 Trustee and the Lessee 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 agreed by the Trustee that time is of the essence of this Agreement and that no such waiver, recession or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

## ARTICLE 16

### Remedies

At any time during the continuance of a Declaration of Default, the Vendor may, 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 Trustee any sums theretofore paid in respect thereof and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Trustee or any other person and for such purpose may enter upon the premises of the Trustee or any other premises 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 Trustee, 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 for the delivery of the Equipment to the Vendor, the Trustee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, causing prompt telegraphic and written notice to be given to all railroads which may have possession of any unit or units of the Equipment to return the unit or units) cause the Equipment to be placed upon such storage tracks as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks without charge for insurance, rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to such interchange point or points as directed by the Vendor upon any sale, lease or other disposal of all or any of the Equipment.

During any storage period, the Trustee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties; and upon the application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree of specific performance hereof. The Trustee 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 Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, upon such notice and consent, as is hereinafter set forth, retain the Equipment in satisfaction of the entire CSA 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 Trustee and the Lessee by telegram, telex, telecopy or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor shall elect to retain the Equipment and the Trustee does not object thereto in writing as described in second proviso below, all the Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Trustee or for its account in respect of the Equipment may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Trustee, 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 CSA 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 Trustee; provided further that if the Trustee, the Lessee 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 provided by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession of the Equipment, at its election and upon 30 days' notice to the Trustee, the Lessee and any other persons to whom the law may require notice of the time and

place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Trustee, the Lessee or any other party claiming from, through or under the Trustee or the Lessee, 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 Trustee should tender full payment of the total unpaid balance of the CSA 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 possession of, title to and property in the Equipment shall pass to and vest in the Trustee. The proceeds of such sale or other disposition, less the attorneys' fees 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 conducted in a commercially reasonable manner. The Vendor and the Trustee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Trustee and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 30 days prior thereto, by telegram, telex, telecopy or registered mail addressed as provided in Article 20 hereof. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Trustee or the Lessee (except to the extent of surplus money received as hereinafter provided in this Article 16), 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.

Notwithstanding the foregoing, the Vendor agrees that, before it shall proceed to foreclose the lien of this Agreement, the Vendor shall, to the extent that it is then entitled to do so under the Lease and is not then stayed or otherwise prevented from doing so by operation of law or otherwise, first proceed to exercise one or more of the remedies provided in the Lease as it shall determine in its sole discretion.

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 except that the Vendor shall not be deemed to have the power or remedy to retain the Equipment in satisfaction of the CSA Indebtedness except as specifically provided in this Article 16. 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 Trustee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Trustee'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 Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

Subject to the third paragraph of this Article 16, 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 Trustee shall, subject to the limitations of the last paragraph of Article 4 and Article 21 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Trustee 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 Trustee. If, after applying all sums realized

by the Vendor in any of its capacities under the remedies provided or contemplated hereunder or under any other document related to this transaction, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid promptly to the Trustee.

The Trustee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies against the Trustee 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 in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations of the last paragraph of Article 4 and Article 21 hereof.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

#### ARTICLE 17

##### 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 Trustee 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 Trustee, 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 18

### Recording

Subject to the provisions of Article 21 hereof and the proviso contained in Section 15 of the Lease, the Trustee will (a) promptly after the execution and delivery of this Agreement, any assignments hereof, the Lease, the Lease Assignment and each supplement hereto and thereto, respectively, cause this Agreement, any assignments hereof, the Lease, the Lease Assignment and each such supplement to be duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and deposited with the Registrar General of Canada (notice of such deposit to be forthwith given in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada, (b) from time to time do and perform any other act and will execute, acknowledge, deliver and file, register and record any and all further instruments required by law or reasonably requested by the Vendor for the purposes of proper protection of the security interest of the Vendor, (c) furnish an opinion or opinions of counsel of the Lessee, satisfactory to the Vendor and its special counsel, in connection with such filing, registration, and recordation, and (d) promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

## ARTICLE 19

### 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.

Except for the Participation Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Trustee 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 Trustee.

## ARTICLE 20

### Notice

Any notice required or permitted to be given by any party hereto to any other party or parties shall be deemed to have been received by the addressee on the date of actual receipt (if such date is a Business Day, otherwise on the next Business Day), if transmitted by mail, telex, telecopy or similar transmission, or by hand, addressed as follows:

(a) to the Trustee at 35 North 6th Street, Reading Pennsylvania, 19601, attention of Corporate Trust Department,

(b) to the Assignee at P.O. Box 2258 (or, if by hand, at 2 Hopkins Plaza), Baltimore, Maryland 21203, attention of Corporate Trust Department,

(c) to the Seller at its address specified in Item 1 of Annex A hereto, and

(d) to any assignee of the Vendor or of the Trustee, at such address as may have been furnished in writing to the Trustee or the Vendor, as the case may be, and to the Lessee, by such assignee.

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

## ARTICLE 21

### Satisfaction of Undertakings

The obligations of the Trustee under the second, eighth and ninth paragraphs of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the second paragraph thereof), 8, 9, 10, 12, (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Trustee shall not have any responsibility or liability 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 15 hereof.

Until the security interest of the Vendor in this Agreement is discharged as provided in Article 5 hereof, no waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

Each and all of the representations, warranties, covenants and agreements herein made on the part of the financial institution acting as Trustee hereunder are made and intended not as personal representations, warranties, covenants and agreements by said institution or for the purpose or with the intention of binding said institution 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 (except as aforesaid) this Agreement is executed and delivered by said institution solely in the exercise of the powers expressly conferred upon said institution as trustee under the Trust Agreement; and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said institution on account of any representation, warranty, covenant or agreement herein of the Trustee (except in the case of gross negligence or willful misconduct of the Trustee), 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 the Vendor making claim hereunder may look to said Trust Estate for satisfaction of the same.

## ARTICLE 22

### 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 49 U.S.C. § 11303 and such additional rights arising out of the filing, recording or deposit hereof, 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 or in which any unit of Equipment shall be located, and any rights arising out of the markings on the units of Equipment.

ARTICLE 23

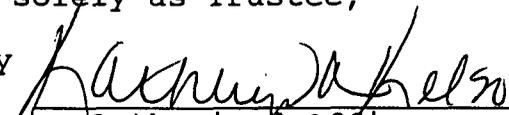
Execution

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, 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. This Agreement shall be effective when executed counterparts hereof have been delivered to Cravath, Swaine & Moore at their offices in New York, New York.

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

MERIDIAN TRUST COMPANY,  
not in its individual capacity  
but solely as Trustee,

by

  
Authorized Officer

[Corporate Seal]

Attest:

  
Authorized Officer

TRAILER TRAIN COMPANY,

By: *V.D. Maron*  
Treasurer

(Corporate Seal)

Attest:

*A.J. Barton*  
Assistant Secretary

STATE NEW YORK  
COMMONWEALTH OF PENNSYLVANIA, )  
NEW YORK ) ss.:  
COUNTY OF BERKS )

On this 22 day of August 1988, before me personally appeared Kathleen A. Kelso, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of MERIDIAN TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and 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.

*Caryn W Sherman*  
Notary Public

[Notarial Seal]  
My Commission expires August 31, 1990

CARYN W. SHERMAN  
Notary Public, State of New York  
No. 31-4633891  
Qualified in New York County  
Commission Expires August 31, 1990

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

On this day of August 1988, before me personally appeared Thomas D. Marion, to me personally known, who, being by me duly sworn, says that he is the Treasurer of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

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

[Notarial Seal]  
My Commission expires

COMMONWEALTH OF PENNSYLVANIA, )  
 ) ss.:  
COUNTY OF BERKS )

On this      day of August 1988, before me personally appeared      , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of MERIDIAN TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

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

(Notarial Seal)  
My commission expires

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

On this <sup>2<sup>nd</sup></sup> day of August 1988, before me personally appeared Thomas D. Marion, to me personally known, who, being by me duly sworn, says that he is the Treasurer of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

"OFFICIAL SEAL"  
Milan Vrabec, Jr.  
Notary Public, State of Illinois  
(My Commission Expires) 12/3/90  
My commission expires

*Milan Vrabec, Jr.*  
\_\_\_\_\_  
Notary Public

SCHEDULE I

[P81313]

Allocation Schedule of Each \$10,000,000  
of 10.10% Conditional Sale Indebtedness

<u>Date</u>	<u>Debt Service</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Principal Balance</u>
Feb 1, 1989	\$ *	\$ *	\$0.00	\$10,000,000.00
Aug 1, 1989	504,999.98	504,999.98	0.00	10,000,000.00
Feb 1, 1990	727,146.32	504,999.98	222,146.34	9,777,853.66
Aug 1, 1990	493,781.58	493,781.58	0.00	9,777,853.66
Feb 1, 1991	738,364.60	493,781.58	244,583.02	9,533,270.64
Aug 1, 1991	481,430.16	481,430.16	0.00	9,533,270.64
Feb 1, 1992	750,716.14	481,430.16	269,285.98	9,263,984.66
Aug 1, 1992	467,831.20	467,831.20	0.00	9,263,984.66
Feb 1, 1993	764,315.09	467,831.20	296,483.89	8,967,500.77
Aug 1, 1993	452,858.86	452,858.86	0.00	8,967,500.77
Feb 1, 1994	779,287.57	452,858.86	326,428.71	8,641,072.06
Aug 1, 1994	436,374.21	436,374.21	0.00	8,641,072.06
Feb 1, 1995	795,772.21	436,374.21	359,398.00	8,281,674.06
Aug 1, 1995	418,224.54	418,224.54	0.00	8,281,674.06
Feb 1, 1996	813,921.76	418,224.54	395,697.22	7,885,976.84
Aug 1, 1996	398,241.85	398,241.85	0.00	7,885,976.84
Feb 1, 1997	786,374.31	398,241.85	388,132.46	7,497,844.38
Aug 1, 1997	378,641.17	378,641.17	0.00	7,497,844.38
Feb 1, 1998	1,787,795.96	378,641.17	1,409,154.79	6,088,689.59
Aug 1, 1998	307,478.87	307,478.87	0.00	6,088,689.59
Feb 1, 1999	859,331.55	307,478.87	551,852.68	5,536,836.91
Aug 1, 1999	279,610.31	279,610.31	0.00	5,536,836.91
Feb 1, 2000	975,567.40	279,610.31	695,957.09	4,840,879.82
Aug 1, 2000	244,464.46	244,464.46	0.00	4,840,879.82
Feb 1, 2001	1,184,896.19	244,464.46	940,431.73	3,900,448.09
Aug 1, 2001	196,972.66	196,972.66	0.00	3,900,448.09
Feb 1, 2002	1,368,127.20	196,972.66	1,171,154.54	2,729,293.55
Aug 1, 2002	137,829.32	137,829.32	0.00	2,729,293.55
Feb 1, 2003	1,433,561.69	137,829.32	1,295,732.37	1,433,561.18
Aug 1, 2003	72,394.84	72,394.84	0.00	1,433,561.18
Feb 1, 2004	1,505,956.02	72,394.84	1,433,561.18	0.00
Aug 1, 2004	0.00	0.00	0.00	0.00
Feb 1, 2005	0.00	0.00	0.00	0.00
			<u>\$10,000,000.00</u>	

\* Interest only to the extent accrued will be payable on this date.

[P81313]

ANNEX A

to

Conditional Sale Agreement

- Item 1: Trailer Train Company, 101 North Wacker Drive,  
Chicago, Illinois 60606, Attention of Treasurer.
- Item 2: The Equipment shall be settled for in three Groups  
on August 23, September 29 and December 29, 1988,  
unless the parties hereto otherwise agree.
- Item 3: The Seller will make available to the Trustee and  
the Vendor the warranties and patent  
indemnifications given to the Seller by the  
manufacturers listed in Annex B hereto.
- Item 4: The Maximum Purchase Price referred to in  
Article 4 of this Agreement is \$43,049,450.
- Item 5: The Maximum CSA Indebtedness referred to in  
Article 4 of the Agreement is \$33,000,000.

TRAILER TRAIN COMPANY  
ANNEX B TO CONDITIONAL SALE AGREEMENT

<u>Builder/Car Type</u>	<u>Contract No.</u>	<u>Number of Cars</u>	<u>Car Numbers (Inclusive)</u>	<u>Estimated Unit Price</u>	<u>Total</u>	<u>Estimated Month of Delivery</u>
Thrall Car Manufacturing Co.:						
Center-beam flatcars - TTZX	T-5A87-T	16	86707, 86774, 86776, 86790 - 86792 86797 - 86806	\$ 42,200	\$ 675,200	January 1988
	T-4087-T	100	86807 - 86906	44,500	4,450,000	Sept. - Nov. 1988
Bethlehem Steel Corp.:						
Five-platform articulated IMPACK flatcars for carrying trailers - TTLX	T-6087-B	200	60200 - 60399	123,345	24,669,000	March - Aug. 1988
Five-platform articulated Spine flatcars for carrying containers - NTTX	T-1088-B	60	67090 - 67149	96,383	5,782,980	Sept. - Oct. 1988
Gunderson, Inc.:						
Center-beam flatcars - TTZX	T-4087-F	25	83800 - 83824	48,687	1,217,175	June 1988
Trinity Industries, Inc.:						
Five-platform articulated Spine flatcars for carrying containers - NTTX	T-5A87-P	40	66060 - 66099	105,117	4,204,680	July - Nov. 1988
Single-platform Front Runner flatcars for carrying trailers - TTUX	T-1088-P	65	145595-145659	30,780	2,000,700	December 1988
		<u>506</u>			<u>\$42,999,735</u>	

Annex C to  
Conditional Sale Agreement

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[CS&M Ref: 2164-804]

LEASE OF RAILROAD EQUIPMENT

(No. 30)

Dated as of August 15 , 1988

Between

TRAILER TRAIN COMPANY,

as Lessee,

and

MERIDIAN TRUST COMPANY,  
not in its individual capacity  
but solely as Trustee for  
TECO INVESTMENTS, INC.

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 institutional investors. The original of this Lease is held by said Agent.

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## Lease of Railroad Equipment

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\*This Table of Contents has been included in this document for convenience only and does not form a part of or affect any construction or interpretation of this document.

LEASE OF RAILROAD EQUIPMENT dated as of August 15, 1988, between TRAILER TRAIN COMPANY, a Delaware corporation ("Lessee"), and MERIDIAN TRUST COMPANY, a Pennsylvania trust company, acting not in its individual capacity but solely as Trustee ("Trustee") under a Trust Agreement dated as of the date hereof with TECO Investments, Inc. ("Owner").

WHEREAS the Trustee is entering into a conditional sale agreement (the "CSA") with Trailer Train Company (in such capacity, "Seller"), pursuant to which the Trustee has agreed to purchase and take delivery of the railroad equipment described in Schedule A hereto ("Equipment"); and

WHEREAS the Seller is assigning its interests in the CSA pursuant to an Agreement and Assignment ("CSA Assignment") to Mercantile-Safe Deposit and Trust Company, acting as Agent (together with its successors and assigns, "Vendor"), under a Participation Agreement dated as of the date hereof ("Participation Agreement") with the Lessee, the Trustee, the Owner and the investors named therein (together with their successors and assigns, "Investors"); and

WHEREAS the Lessee will lease from the Trustee all the units of the Equipment as are delivered and accepted under the CSA at the rentals and for the term and upon the conditions hereinafter provided (each such unit being hereinafter called "Unit"); and

WHEREAS the Trustee will assign certain of its rights under this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement ("Lease Assignment") and the Lessee will consent to the Lease Assignment pursuant to a Lessee's Consent and Agreement ("Consent");

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

SECTION 1. Net Lease. This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as provided in Section 7 hereof, 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 Trustee, whether under this Lease, under the CSA or otherwise, including the Lessee's rights by subrogation

thereunder against the Seller or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Trustee 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 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 Trustee or the Vendor for any reason whatsoever.

SECTION 2. Delivery and Acceptance of Units. The Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Trustee under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Trustee under the CSA. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such unit on behalf of the Trustee under the CSA and itself hereunder whereupon such Unit shall, except as provided in the last paragraph of Article 3 of the CSA, 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. The Lessee will promptly execute and deliver to the Trustee a certificate of acceptance ("Certificate of Acceptance") in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Trustee on the date of such Certificate of Acceptance and is marked in accordance with Section 5 hereof.

SECTION 3. Rentals. With respect to each of the Units subject to this Lease, the Lessee will pay to the Trustee the rentals shown in Schedule B hereto.

In addition, the Lessee will pay as additional rentals hereunder any amounts required to be paid as and when due pursuant to the next to the last sentence of the first paragraph of Section 9 and the last sentence of the last paragraph of Section 9 of the Participation Agreement and the annual fees, costs and disbursements of the Agent and the Trustee required by Section 12 of the Participation Agreement.

The rentals shown in Schedule B hereto and the Casualty Values shown in Schedule C hereto have been calculated on the assumptions that (i) 52.3391% of the aggregate estimated unit price of the Units set forth in Schedule A hereto hereto will be settled for on August 18, 1988, 17.7849% of such aggregate estimated unit price of the Units will be settled for on September 29, 1988, and the balance of such aggregate estimated unit price will be settled for on December 29, 1988, (ii) the fees and expenses payable by the Owner pursuant to Section 12 of the Participation Agreement will be equal to 1/2 of 1% of the aggregate Purchase Price of the Units and (iii) no Change in Tax Law shall have occurred prior to the settlement date for any Units. The term "Change in Tax Law" means a change in the Internal Revenue Code of 1986, the issuance of new or revised, proposed, temporary or final Treasury Regulations, or the issuance of revenue procedures, revenue rulings or other administrative publications announcing the intention of the Treasury to issue such Regulations, not including any such amendment, modification, deletion or change affecting a minimum tax or alternative minimum tax relating generally to the income of the Owner. If any of the foregoing assumptions proves to be incorrect, such rentals and Casualty Values will be adjusted upward or downward by the minimum amount necessary so the Owner's after-tax yield, aggregate after-tax cash flow and the timing thereof (such after-tax yield, after-tax cash flow and the timing thereof being hereinafter called "Net Economic Return") (computed on the same assumptions, including rates, as were originally utilized by the Owner in calculating the rental rates set forth in Schedule B hereto and the Casualty Values set forth in Schedule C hereto) shall at least equal the Net Economic Return that would have been realized by the Owner in accordance with the assumptions stated above. If any proposal or announcement is not finally adopted, an equitable adjustment shall be made. Any dispute with respect to any adjustments made pursuant hereto shall be resolved in the same manner as disputes with respect to adjustments under the Tax Indemnity Agreement are to be resolved. If the aggregate pre-tax present value (computed at 10.10% compounded semiannually)

of the increase in rentals occasioned by clause (iii) of this paragraph of this Section 3 with respect to any remaining settlement date is in excess of 125 basis points, then the Lessee shall have the option of not closing on the remaining settlement dates.

Notwithstanding anything to the contrary set forth herein, the rentals and Casualty Values, as adjusted pursuant to this Section 3, shall always be sufficient to satisfy the obligations of the Trustee under the CSA regardless of any limitation of liability set forth therein and the date on which any rentals or Casualty Value is payable shall in any event be consistent with the Trustee's payment obligations under the CSA.

If any of the rental payment dates referred to above is not a business day (as such term is defined in Article 4 of the CSA), the rental payment otherwise payable on such date shall then be payable on the following business day, and no interest shall be payable for the period from and after the scheduled date for payment thereof to such following business day.

For so long as the CSA shall remain in effect, the Trustee irrevocably instructs the Lessee to make all the payments due the Trustee provided for in this Lease (other than payments which by the express terms of Sections 6, 9, and 19 of this Lease are payable directly to the Trustee) to the Vendor, for the account of the Trustee, in care of the Vendor, with instructions to the Vendor (a) first to apply such payments to satisfy the obligations of the Trustee under the CSA and the Participation Agreement known to the Vendor to be due and payable thereunder on the date such payments are due and payable hereunder and (b) second, so long as no event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to the Trustee or as directed by the Trustee in immediately available funds at such place as the Trustee shall specify in writing.

The Lessee agrees to make each payment provided for herein as contemplated by this Section 3 in immediately available funds at or prior to 11:00 a.m. Baltimore time to the office of the Vendor (at 2 Hopkins Plaza, Baltimore, Maryland 21203, attention of Corporate Trust Department) on the date due, or if the CSA shall no longer be in effect, at the office of the Trustee.

The Lessor agrees to reimburse the Lessee, in the manner provided in the next sentence, for (x) any amount paid by the Lessee pursuant to clause (b) of the last paragraph of Section 9 of the Participation Agreement plus (y) accrued interest on the unreimbursed portion thereof at

the rate announced from time to time by Manufacturers Hanover Trust Company, N.A. at its principal office in New York City as its prime lending rate plus 7% from the date such amount is paid to but not including the date such reimbursement is complete (such amount to be reimbursed being herein called the "Reimbursement Amount"). The Lessee shall be entitled to receive from the Agent any amounts that would otherwise be distributable to the Lessor or the Owner under the CSA until the Lessee has been fully reimbursed for the Reimbursement Amount.

SECTION 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder as aforesaid and, subject to the provisions of Section 7, 10 and 13 hereof, shall terminate on February 1, 2005. Except for obligations of the Lessee hereunder which are specifically stated to terminate at a fixed time, the obligations of the Lessee hereunder (including, but not limited to, the obligations under Sections 3, 6, 7, 9, 11, 14 and 19 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 CSA. If an event of default should occur under the CSA, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

SECTION 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto and each well constituting part of each Unit to be steel-stamped with the identifying number for such well in a uniform location, or in the case of any Unit not there listed such identifying 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 WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the Trustee's title to and the Vendor's security interest in such Unit and the rights of the Trustee under this Lease and of the Vendor under the CSA. The Lessee will not place or permit any such Unit to be placed in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace or cause to be replaced promptly any such name and words which may be removed, defaced, obliterated or destroyed. The Lessee will

not change or permit to be changed the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Trustee and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Trustee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Trustee's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Trustee in such Units.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may permit the Equipment to be lettered with the names, trademarks, initials or other insignias customarily used by the Lessee on railroad equipment used by it of the same or a similar type for convenience of identification of its rights to use the Equipment under this Lease, and the Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Lessee therein.

SECTION 6. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee agrees to pay, and to indemnify and hold the Trustee, both in its individual and trust capacities, the Owner, the Vendor and the Investors and their respective successors, assigns, agents and servants ("Indemnified Persons") on an after-tax basis from all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon any such Indemnified Person or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Lease, the Lease Assignment, the Consent, the Trust Agreement, the Participation Agreement, the CSA or the CSA Assignment; any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held in trust by the Trustee under the Trust Agreement or by the Vendor under

the CSA (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) in the case of the Owner (a) any Taxes of the United States or of any state or political subdivision thereof, imposed on or measured by the net income (including, without limitation, alternative minimum taxes and taxes measured by tax preference items) or excess profits of the Owner or on or measured by capital, stock value or the net worth of the Owner in the case of franchise or doing business taxes of the Owner, and (b) any Taxes imposed by a foreign jurisdiction or political subdivision thereof based on the net income (including, without limitation, alternative minimum taxes and taxes measured by items of tax preference), or excess profits of the Owner or on or measured by capital, stock value or net worth of the Owner, in the case of franchise or doing business taxes if (x) the Units were not physically present in such foreign jurisdiction or political subdivision or (y) in the case of any foreign jurisdiction in which the Units were physically present, except to the extent such Taxes are increased by reason of such presence; (ii) in the case of any Indemnified Person other than the Owner, any Taxes of the United States or of any state or political subdivision thereof, or of any foreign jurisdiction or political subdivision, imposed on or measured by net income (including, without limitation, alternative minimum taxes and taxes measured by tax preference items) or excess profits of such Indemnified Person or on or measured by capital, stock value or net worth of such Indemnified Person, in the case of franchise or doing business taxes, other than Taxes arising out of or imposed on or in respect of indemnification payments under this Lease; (iii) in the case of any Indemnified Person any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by such Indemnified Person or any transfer or disposition by such Indemnified Person resulting from bankruptcy or other proceedings for the relief of debtors in which such Indemnified Person is the debtor, whether voluntary or involuntary, or other action of creditors of such Indemnified Person, of any interest in any Unit, the CSA or any interest in rentals under the Lease, unless in each case such transfer or disposition is in connection with a Casualty Occurrence or is pursuant to the exercise of remedies in connection with an Event of Default under the Lease; (iv) in the case of the Trustee or the Vendor, any Taxes imposed on or measured by any fees received by the Trustee or the Vendor; (v) in the case of any Indemnified Person, any Taxes which are imposed on or measured by the net income of such Indemnified Person if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by

any other person which the Lessee has not agreed to pay or indemnify against pursuant to this Section 6; (vi) any taxes imposed on any Indemnified Person resulting from the gross negligence or willful misconduct of such Indemnified Person in connection with the performance of, or failure to perform, any requirement imposed on it under any provision of any of the Documents or with respect to any return otherwise required to be filed by such Indemnified Person without regard to the transactions contemplated by the Documents, in connection with the preparation or filing of tax returns, the payment of its taxes or the conduct of any proceeding in respect thereof, but only to the extent not attributable to the failure of the Lessee to notify such Indemnified Person of its obligations to prepare and file returns, reports or statements in respect of Taxes indemnified pursuant to this section or to provide any information necessary for the preparation or filing of such returns, reports or statements or the conduct of such proceedings or to otherwise perform its duties and responsibilities pursuant to the Documents including, without limitation, the obligation to make payments hereunder, (vii) any taxes imposed with respect to events occurring or matters arising after the later of (A) the return of possession of the Units to the Owner pursuant to the terms of the Lease, or (B) the expiration or earlier termination of the term of the Lease except to the extent directly attributable to a failure of the Lessee to fully discharge its obligations under the Lease; and (viii) any taxes which are included in the Purchase Price, provided that such Taxes have been remitted to the proper taxing authorities; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the next succeeding paragraph. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured by the net income of the Lessee (or the affiliated group, within the meaning of section 1504 of the Internal Revenue Code of 1986 of which the Lessee is a member) under the laws of the United States or of any state or political subdivision thereof, which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same in good faith by appropriate proceedings.

If claim is made against any Indemnified Person for any Taxes indemnified against under this Section 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, such Indemnified Person shall, upon receipt of indemnity satisfactory to it for all

costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of such Indemnified Person; provided that no proceeding or action relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such Indemnified Person in any such proceeding or action) without the prior written consent of such Indemnified Person, such consent not to be unreasonably withheld (provided that it is understood that such Indemnified Person may impose reasonable conditions relating to the commencement and conduct of such contest as a condition to granting its consent). If such Indemnified Person shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or any amount representing interest thereon applicable to the amount paid by the Lessee and the period of such payment, such Indemnified Person shall pay to the Lessee the amount of such refund or interest net of expenses; provided, however, that no such amount shall be paid if an Event of Default or an event which, with notice or lapse of time or both, would constitute an Event of Default shall have occurred and be continuing, unless such event or Event of Default shall have been cured.

Any payment which the Lessee shall be required to make to or for the account of any Indemnified Person with respect to any Tax which is subject to indemnification under this section shall (A) reflect any current savings of such Indemnified Person resulting by way of deductions, credits or other tax benefits attributable to the payment (or accrual) of such indemnified Tax unless such deduction or credit or other tax benefit was taken into account in computing the payment which the Lessee is required to make with respect to any Tax which is subject to indemnification under this section by way of a deduction or credit against such Tax and (B) include the amount necessary to hold such Indemnified Person harmless on an after-tax basis from the amount of any federal, state, local or foreign taxes required to be paid by such Indemnified Person as the result of any such payment. If, by reason of any Tax payment made to or for the account of an Indemnified Person by the Lessee

pursuant to this section such Indemnified Person subsequently realizes a tax benefit, savings, deduction or credit (including foreign tax credit) not previously taken into account in computing such payment, such Indemnified Person shall promptly pay to the Lessee an amount equal to the sum of (I) the actual net reduction in Taxes, if any, realized by such Indemnified Person which is attributable to such deduction or credit and (II) the actual reduction in any Taxes realized by such Indemnified Person as the result of any payment made by such Indemnified Person pursuant to this sentence; provided, however, that such Indemnified Person shall not be obligated to make payment pursuant to this Section to the extent that the amount of such payment would exceed (x) the amount of all prior payments made by the Lessee pursuant to this section, less (y) the amount of all prior payments by such Indemnified Person to the Lessee hereunder, and any such excess shall be carried forward and reduce any subsequent obligations of the Lessee to indemnify such Indemnified Person. For purposes of the preceding sentence, items of foreign tax of any Indemnified Person shall be deemed to be utilized by such Indemnified Person as credits or deductions for Federal income tax purposes for any taxable year in accordance with the following priorities:

First, all available foreign taxes other than those described in the next two clauses of this sentence;

Second, all available foreign taxes attributable to a leasing transaction entered into by such Indemnified Person with a lessee other than the Lessee and for which such Indemnified Person was indemnified or held harmless by anyone in such lease transaction other than a lease transaction described in the next clause of this sentence on a pari passu basis with any foreign tax credits attributable to any tax payment made to or for the account of such Indemnified Person pursuant to this section; and

Third, all available foreign taxes attributable to a leasing transaction entered into by such Indemnified Person for which such Indemnified Person was indemnified or held harmless by anyone in such lease transaction and in which the tax credit ordering rules applicable to such indemnification specifically provide that foreign taxes attributable to such transaction shall be taken in account last (and not on a pari passu basis as hereinabove stated).

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

All the obligations of the Lessee under this Section 6 shall survive and continue, but only with respect to periods included in the term of this Lease, notwithstanding payment in full of all amounts due under the CSA or the termination of this Lease. All amounts payable by the Lessee pursuant to this Section 6 shall be payable directly to the Indemnified Person entitled to indemnification, except to the extent paid to a governmental agency or taxing authority.

The Lessee shall furnish promptly, upon request, such information and data as are normally available to the Lessee and which the Vendor or the Owner reasonably may require to permit compliance with the requirements of any taxing authorities.

**SECTION 7. Payment for Casualty Occurrences;**  
**Insurance.** In the event that any Unit shall be or become worn out, lost, stolen, destroyed, irreparably damaged, or permanently rendered unfit for use from any cause whatsoever, taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government for a period not in excess of the then remaining term of this Lease, ("Casualty Occurrence") during the term of this Lease or until such Unit shall have been returned in the manner provided in Section 11 or Section 14 hereof, the Lessee shall within 60 days after the Lessee has determined that a Casualty Occurrence has occurred notify the Trustee and the Vendor with respect thereto. On the rental payment date next succeeding the delivery of such notice, (or, in the event such rental payment date will occur within 15 days after delivery of notice, on the following rental payment date, or, in the event the term of this Lease has already expired or will

expire within 15 days after delivery of such notice, on a date within 15 days of such delivery) ("Casualty Payment Date"), the Lessee shall pay to the Trustee on such Casualty Payment Date a sum equal to the Casualty Value of such Unit as of such Casualty Payment Date. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of such Casualty Payment Date, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Trustee shall be entitled to recover possession of such Unit.

If the Casualty Payment Date shall be after the term of this Lease in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term, but, in addition to paying the Casualty Value for such Unit, the Lessee shall pay interest thereon from the end of such term to the Casualty Payment Date at the rate of 10.10% per annum.

The Trustee hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, before or after the expiration of this Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Trustee and is not in default hereunder or an event which after notice or lapse of time or both would become a default hereunder, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess, less reasonable expenses incurred in connection therewith, to the Trustee. All proceeds due to the Lessee in respect to any AAR interline settlement in respect of a Casualty Occurrence shall be for the account of the Lessee provided the Lessee has paid the Casualty Value in respect thereof.

The Casualty Value of each Unit as of the Casualty Payment Date for each such Unit shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule C hereto opposite such date.

In the event of the requisition for use by the United States Government of any Unit during the term of this Lease or any renewal thereof, unless such requisition shall constitute a Casualty Occurrence, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease, the Lessee shall be obligated to return such Unit to

the Trustee pursuant to Section 11 or Section 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease; but the Lessee shall in all other respects comply with the provisions of said Section 11 or Section 14, as the case may be, with respect to such Unit. All payments received by the Trustee or the Lessee from the Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Trustee or the Lessee from the Government for the use of such Unit after the term of this Lease, shall be paid over to, or retained by, the Trustee.

Except as hereinabove in this Section 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee shall at all times while this Lease is in effect cause to be carried and maintained public liability insurance with respect to each Unit in an amount not less than \$10,000,000 per occurrence, with such deductibles and against such risks as are customarily insured against and with such insurance companies of recognized responsibility as is usually carried by businesses of established reputation engaged in the same or similar business as the Lessee and similarly situated, and in any event, in amounts not less than and against such risks so as to be no less protective than the insurance, if any, maintained by the Lessee with respect to similar equipment owned or leased by the Lessee. Each policy with respect to such insurance shall (i) name the Trustee, both in its individual and trust capacity, the Owner and the Agent as additional insureds, as their respective interests may appear, (ii) not require premiums, commissions and assessments from any additional insured, (iii) not require contribution from any other insurance coverage purchased by any additional insured, (iv) provide that no cancellation or material change shall be effective as to any insured until at least 30 days after the Trustee's, the Owner's and the Agent's receipt of written notice thereof, and (v) waive any right of subrogation against any additional insured.

The Lessee shall, on or before May 1 of each calendar year commencing with 1989 and from time to time upon request of the Trustee, the Owner or the Vendor,

furnish appropriate evidence of all insurance maintained hereunder.

The Trustee, the Owner and the Vendor shall each have the right to maintain at its expense any casualty insurance on the Equipment for the purpose of protecting the fair value of the Units, provided, that such casualty insurance would not in any way impair any insurance maintained by the Lessee. The parties hereto shall cooperate with each other to effectuate the purposes of the preceding sentence.

SECTION 8. Reports. On or before May 1 in each year, commencing with the calendar year 1989, the Lessee will furnish to the Trustee, the Owner and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the CSA, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or, in the case of the first such statement, since the date of this Lease (specifying the dates of such Casualty Occurrences) and such other information regarding the condition and state of repair of the Units as the Trustee, the Owner or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by Section 5 hereof and the CSA have been preserved or replaced. The Trustee shall have the right (but not any obligation) by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Trustee may request during the continuance of this Lease.

The Lessee will at its expense prepare and deliver to the Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Trustee) any and all reports (other than income tax returns except as provided in Section 6 hereof) to be filed by the Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Trustee or the Vendor of the Units or the leasing thereof to the Lessee.

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

SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO THE LESSEE HEREUNDER, AND THE TRUSTEE DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF 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 OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE), it being agreed that all such risks, as between the Trustee and the Lessee, are to be borne by the Lessee; but the Trustee hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease, so long as no Event of Default shall have occurred and be continuing, to assert and enforce from time to time, in the name of and for the account of the Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights (including warranty or similar claims) the Trustee may have against the Seller or the manufacturer(s) of the Units or any components thereof. The Lessee shall be obligated to assist diligently with respect to any such claims and to use the proceeds, if applicable, for the repair or restoration of the Units affected thereby. The Trustee shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstance in connection therewith including strict liability in tort; (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 Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Trustee 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 Trustee based on any of the foregoing matters.

The Lessee will, for the benefit of the Trustee, the Owner and the Vendor, 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 operations involving the Units may extend, with the Rules of the Association of American Railroads and with all

lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units (all such laws and rules to such extent being hereinafter called "Applicable Laws") and in the event that Applicable Laws require any alteration, replacement, modification or addition of or to any part of any Unit, the Lessee will fully conform therewith at its own expense; provided, however, that the Lessee may upon written notice to the Trustee and the Vendor, in good faith, contest the validity or application of any such Applicable Laws in any reasonable manner which does not, in the opinion of the Trustee or the Vendor, adversely affect the property or rights of the Trustee or the Vendor, respectively, under this Lease or under the CSA.

The Lessee shall, at its own cost and expense, maintain and keep, or cause to be maintained and kept, 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 such condition as the Lessee would, in the prudent management of its own business, maintain and use similar equipment owned by the Lessee, consistent with prudent industry practice but in any case so as to maintain each Unit in good operating order, repair and condition, ordinary wear and tear excepted.

The term "Units" as used in this Lease shall not include any special devices, racks (including, but not limited to, automobile-carrying superstructures) or assemblies at any time attached to any Unit, the cost or purchase price of which is not included in the Purchase Price of the Units or the title to which is in a person other than the Trustee (all of which are hereinafter called "Property Owned by Others"). The Trustee and the Lessee recognize that such special devices, automobile-carrying superstructures and other assemblies may be attached to the Units and may be owned and financed by persons other than the Trustee or the Lessee. The Trustee expressly acknowledges, for the purpose of assurance of any such persons and for the purpose of inducing attachment of such special devices, automobile-carrying superstructures and other assemblies to the Units, that the Trustee has no rights therein and that such persons may, at their own cost and expense, upon written notice to the Trustee and the Vendor, remove such special devices, automobile-carrying superstructures and other assemblies

from the Units. The Lessee represents and warrants that it will, at the time of termination of this Lease (i) cause all Property Owned by Others to be removed from the Units, (ii) repair all damage, if any, caused by such removal, and (iii) after such removal, the value or utility of the Unit to which it was attached will not be diminished or impaired from what such value or utility would have been if such Property of Others had not been attached thereto.

The Lessee and its affiliates, at their own cost and expense, may from time to time make such other alterations, modifications and additions at any time attached or affixed to any Unit, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the United States Department of Transportation or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over such Unit (hereinafter collectively called "Additions") to the Units as the Lessee may deem desirable in the proper conduct of its business so long as such Additions shall not be inconsistent with the continuing operation of the Units and shall not diminish the useful life, value, utility or condition of the Units below the useful life, value, utility and condition thereof immediately prior to the making of such Additions, assuming the Units were then in the condition required to be maintained by the terms of this Lease; provided, however, that, without the prior written consent of the Trustee, no such Addition shall be made if it is not readily removable from the Unit to which it relates without material damage thereto or without diminishing or impairing the useful life, value or utility which the Unit would have had immediately prior to such time had such Addition not been made.

Title to all Parts (as hereinbelow defined) incorporated in or installed as part of a Unit shall without further act vest in the Trustee and be subject to a valid first lien and prior perfected security interest under the CSA in the following cases: (i) such Part is in replacement of or in substitution for, and not in addition to, any Part originally incorporated in or installed as part of such Unit at the time of the acceptance thereof hereunder or any Part in replacement of, or in substitution for any such original Part, (ii) such Part is required to be incorporated in or installed as part of such Unit pursuant to the terms of the second or third paragraph of this Section 9, or (iii) notwithstanding the provisions of the next preceding paragraph

of this Section 9, such Part cannot be readily removed from such Unit to which it relates without material damage thereto and without diminishing or impairing the value or utility which such Unit shall have had at such time had such alteration or addition not occurred. In all other cases, if no Event of Default, or event which with notice or lapse of time or both would constitute an Event of Default shall have occurred and be continuing, title to Parts incorporated in or installed as parts of the Units as a result of such alterations or additions shall vest in the Lessee. The term Part for the purposes of this paragraph and Section 14 hereof shall be defined to include any appliance, part, instrument, accessory, furnishing or other equipment of any nature which may from time to time be incorporated in or installed as part of any Unit other than Property Owned by Others.

The Lessee shall pay, and shall protect, indemnify and hold each Indemnified Person, harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses including without limitation attorneys' fees and expenses of any Indemnified Person relating thereto) in any way relating to or arising or alleged to arise out of this Lease, the Participation Agreement, the CSA or any other agreement contemplated hereby, or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent or other defects whether or not discoverable by any Indemnified Person or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort or by statute imposed; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease (except by the Trustee) or of any agreement, law, rule, regulation, ordinance or

restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof; (vii) any claim arising out of any of the Trustee's obligations under the Lease Assignment, the CSA or the Participation Agreement, except to the extent such claim arises from an act or omission of the party claiming indemnification; or (viii) any claim arising out of the Vendor's holding a security interest under the CSA or the Lease Assignment (all of which matters hereinabove set forth in this paragraph being hereinafter called "Indemnified Matters"). All payments hereunder shall be made directly to the Indemnified Person irrespective of whether an Event of Default shall have occurred hereunder. The Lessee shall be obligated under this Section 9, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this Section 9 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person, as the case may be, and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this Section 9, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Section 9 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be

continuing, it shall be subrogated to any right of such Indemnified Person in respect of the Indemnified Matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any Indemnified Matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this Section 9 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made in respect of such matter.

The indemnities contained in this Section 9 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by any Indemnified Person. None of the indemnities in this Section 9 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee or the Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The foregoing indemnities by the Lessee shall not constitute a guarantee by the Lessee of the payment of any installments of principal or interest payable under the CSA or a guarantee of the residual value of the Equipment.

SECTION 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. payment of any part of the rental provided in Section 3 or Section 13 hereof or payment in respect of any Casualty Occurrence pursuant to Section 7 hereof shall not be made by or on behalf of the Lessee and such failure to make payment shall continue for 5 business days after the same shall become due; or

B. default shall be made in the observance or performance of any other of the material covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement or the Consent, and such default shall continue for 30 days after written notice from the Trustee or the Vendor to the Lessee specifying the default and demanding that the same be remedied; or

C. any representation or warranty made by the Lessee herein or in the Consent or in the Participation Agreement or in any agreement, document or certificate delivered by the Lessee in connection herewith or therewith (other than the Indemnity Agreement) shall prove to have been incorrect in any material respect when made or given and the Lessee shall not remedy the situation in a manner satisfactory to the Trustee within 30 days after written notice thereof from the Trustee; or

D. any proceeding shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement or the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of such obligations), and, unless such proceeding 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, under the Participation Agreement or under the Consent, as the case may be, shall not be and shall not continue to be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced; or

E. an event of default set forth in Article 15 of the CSA shall have occurred resulting directly from any default by the Lessee in performing any of its obligations hereunder or under the Participation Agreement;

then, in any such case, the Trustee at its option, may,

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

(b) by notice in writing to the Lessee terminate this Lease with respect to any or all of the Units, whereupon all rights of the Lessee to the use of such 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 Trustee may by its agents enter upon the premises of the Lessee or other premises where any of such Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Trustee 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) in respect of such Units and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Trustee, in its sole discretion, shall specify: (x) a sum with respect to each such Unit which represents the excess of (1) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (2) the then present value of the rentals which the Trustee reasonably estimates to be obtainable for each such Unit during such period, such present value to be computed in each case on the basis of a 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, together with any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Trustee shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of the rental; or (y) an amount equal to the excess, if any, of the Casualty Value of each such Unit as of the rental payment date on or next preceding the date of termination over the amount the Trustee reasonably

estimates to be the sales value (after deduction of all estimated expenses of such sale) of such Unit at such time; provided, however, that in the event the Trustee shall have sold any such Unit, the Trustee, in lieu of collecting any amounts payable to the Trustee by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay to the Trustee, and the Lessee shall pay to the Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination, over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Trustee's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

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

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

The Lessee also agrees to furnish the Trustee, the Owner and the Vendor, promptly upon any responsible

officer's acquiring actual knowledge of any condition which constitutes an Event of Default hereunder or which, after notice or lapse of time or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section 10, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee, any corporate official of the Lessee who in the normal performance of his operational responsibilities would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 11. Return of Units Upon Default. If this Lease shall terminate in respect of any of the Units pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of such Units to the Trustee and shall give prompt telegraphic and written notice to the Association of American Railroads and all railroads having possession of any Unit so to return such Units. Each Unit returned to the Trustee pursuant to this Section 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Trustee pursuant to Section 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such Section 9 and any Property Owned by Others, and (iii) meet as the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect. For the purpose of delivering possession of any such Unit or Units to the Trustee as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner cause such Units to be transported to such location as shall reasonably be designated by the Trustee and there assembled,

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

(c) cause such Units to be moved to such interchange point or points as shall be designated by the

Trustee upon any sale, lease or other disposal of all or any of such Units.

The assembling, delivery, maintenance, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee (and the Lessee will during this period maintain the insurance required by Section 7 of this Lease to be maintained) and are of the essence of this Lease; and, upon application to any court of equity having jurisdiction in the premises, the Trustee 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 permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Unit, to inspect the same. In the event that any of the Units are sold, the Lessee shall pay to the Trustee the per diem interchange for each such Unit which shall not have been assembled, delivered and stored, as hereinbefore provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 11, the Lessee hereby irrevocably appoints the Trustee as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

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

So long as no Event of Default or event of default exists hereunder or under the CSA and the Lessee shall have fully complied with the provisions of this Section 12, the

Lessee shall be entitled to the possession of the Units and also to sublease the Units to, or to permit their use under the terms of car contracts by, a sublessee or user incorporated in the United States of America (or any State thereof or the District of Columbia) or Canada (or any Province thereof) or Mexico, upon lines of railroad owned or operated by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia) or Canada (or any Province thereof) or Mexico, or over which such railroad company or companies have trackage rights or rights for operation of their trains, and upon connecting and other carriers in the usual interchange of traffic in the continental United States, only upon and subject to all the terms and conditions of this Lease; provided, however, that if the Lessee subleases, uses or permits the use of any Unit in Canada (or any Province or Territory thereof) or Mexico, the Lessee shall, except as otherwise provided in Section 15 hereof, first have (a) taken all necessary action to protect the right, title and interest of the Trustee and the Vendor in the Units to be so subleased or used and (b) furnished the Trustee and the Vendor with an Opinion of Canadian counsel or Mexican counsel, as the case may be, satisfactory to the Trustee and the Vendor to the effect that such action is all that is necessary to protect the right, title and interest of the Trustee and the Vendor in such Units.

Any such sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; provided, however, that every such sublease shall be subject to the rights and remedies of the Vendor under the CSA and the Trustee under this Lease in respect of the Units covered by such sublease upon the occurrence of an event of default thereunder or an Event of Default hereunder.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease or car contract as aforesaid and other than an encumbrance resulting from claims against the Trustee or the Vendor not related to the ownership or leasing of, or the security interest of the Vendor in, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Trustee, the Owner, the Vendor or the Lessee therein. The Lessee shall not, without the prior written consent of the Trustee, part with the possession or control of, or suffer or allow to pass out

Trustee an amount equal to the daily equivalent of the average annual rental payable over the original term of this Lease multiplied by the number of such Units equal to the difference between 90% of such Units and the number of such Units previously delivered pursuant to this Section 14 (such number to be determined on each day) for each day from such 90th day to the date on which at least 90% of such Units have been so transported. If, after the 180th day after the termination of this Lease, any of such Units have not been so transported, the Lessee shall pay to the Trustee an amount equal to 125% of the daily equivalent of the average annual rental payable over the original term of this Lease for each such Unit not so transported for each day after the end of such period until such Unit or Units have been so transported.

Each Unit returned to the Trustee pursuant to this Section 14 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) have attached or affixed thereto any Part title to which is in the Trustee pursuant to Section 9 hereof and have removed therefrom at Lessee's expense any Part or Addition title to which is in the Lessee or any other person pursuant to such Section 9 and any Property Owned by Others, and (iii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, or such comparable standards as may then be in effect.

Upon the expiration of the original term of this Lease on February 1, 2005, if the Lessee shall decide not to exercise the renewal option provided by Section 13 hereof or upon the expiration of any extended term of this Lease, the Lessee will deliver to the Trustee a certificate of an officer of the Lessee to the effect that (a) no Event of Default or any event which with lapse of time or notice or both would constitute an Event of Default had occurred or was continuing as of said date; (b) no liens, charges, security interests or other encumbrances (except an encumbrance resulting from claims against the Trustee) were, as of said date, imposed on or with respect to any Unit, any accession thereto, or the interest of the Trustee therein; (c) the Units have been returned to the Trustee pursuant to this Section 14 in the same operating order, repair and condition required by this Section 14 and (d) the Lessee no longer has any interest in the Units under the Lease or otherwise. If a certificate of an officer of the Lessee is required to be furnished pursuant to the preceding sentence, the certificate described in clause (a) in the preceding

sentence shall be furnished on said date, and the certificates described in clauses (b), (c) and (d) in the preceding sentence shall be furnished on a monthly basis, beginning one month later, and such certificate shall cover each such Unit returned during the preceding 30 calendar days and shall apply to each such Unit as of the date such Unit was returned pursuant to the provisions of the first paragraph of this Section 14.

SECTION 15. Recording. The Lessee, at its own expense, will cause this Lease, the CSA, the CSA Assignment, the Lease Assignment and any assignment hereof or thereof to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and deposited with the Registrar General of Canada (and notice of such deposit to be given forthwith in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada. The Lessee will, at its own expense, undertake the filing, registering, deposit, and recording required of the Trustee under the CSA and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA or the Lease Assignment; provided, however, that the Lessee shall not be required to take any such action in respect of any jurisdiction outside the United States if (1) the Lessee deems such action to be unduly burdensome, (2) after giving effect to the failure to take such action, the Lessee has taken all action required by law to protect the title of the Trustee to and the security interest of the Vendor in Units having a Purchase Price (as defined in Article 4 of the CSA) of not less than 85% of the aggregate Purchase Price of all the Units then subject to this Lease, and (3) any Unit at any time located in such jurisdiction shall have been marked with the markings specified in Section 5 hereof.

The Lessee will promptly furnish to the Vendor and the Trustee 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 Trustee and the Vendor.

SECTION 16. Provisions Concerning Subordinated Notes. It is the intention of the parties hereto, and the

Lessee hereby represents and warrants to such effect, that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty-Year Subordinated Notes sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee agrees that if an Event of Default exists hereunder or an event of default exists under the CSA or any event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default or an event of default, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

SECTION 17. Obligations of Trustee Under CSA; Additional Rentals. In the event that the Trustee shall become obligated to make any payment (other than payments in settlement for any Unit or the principal of or interest on the CSA Indebtedness in respect thereof pursuant to the CSA and pursuant to the proviso to the last paragraph of Article 12 thereof) or to perform any obligations pursuant to the CSA not covered by the provisions of this Lease, the Lessee shall pay such additional rentals hereunder and perform such obligations so that all of the Trustee's obligations (other than as aforesaid) pursuant to the CSA shall be fully complied with, without regard for any limitation of liability of the Trustee contained in the CSA.

SECTION 18. Trustee's Right to Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate of 11.10% per annum, shall be payable by the Lessee upon demand. No such performance or compliance by the Trustee shall be deemed a waiver of the rights and remedies of the Trustee against the Lessee hereunder or be deemed to cure the default of the Lessee hereunder.

SECTION 19. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay an amount equal to interest at a rate of 11.10% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

SECTION 20. Notices. Any notice required or permitted to be given by any party hereto to any other party or parties shall be deemed to have been received by the addressee on the date of actual receipt (if such date is a Business Day, otherwise on the next Business Day), if transmitted by mail, telex, telecopy or similar transmission, or by hand, addressed as follows:

if to the Trustee, at 35 North 6th Street, Reading, Pennsylvania 19601, attention of Corporate Trust Department;

if to the Lessee, at 101 North Wacker Drive, Chicago, Illinois 60606, attention of Treasurer;

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

SECTION 21. Immunities. Each and all of the representations, warranties, covenants and agreements herein made on the part of the financial institution acting as Trustee hereunder are made and intended not as personal representations, warranties, covenants and agreements by said institution or for the purpose or with the intention of binding said institution 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 (except as aforesaid) this agreement is executed and delivered by said institution solely in the exercise of the powers expressly conferred upon said institution as trustee under the Trust Agreement; and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said institution on account of any representation, warranty, covenant or agreement herein of the Trustee (except in the case of gross negligence or willful misconduct of the Trustee), 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; provided, however, that the Lessee or any person claiming by, through or under the Lessee making claim hereunder may look to said Trust Estate for satisfaction of the same.

SECTION 22. Severability; Effect and Modification of Lease; Third Party Beneficiaries. 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 Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto, except the Participation Agreement. Subject to the last sentence of the first paragraph of Article 21 of the CSA, 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 Trustee and the Lessee.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Trustee, the Vendor, the Investors and the permitted successors and assigns of such parties, each of which shall be deemed to be a third party beneficiary hereof) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party except as aforesaid.

SECTION 23. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor shall be deemed to be the original counterpart. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 24. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing, recording or depositing of this Lease and any assignment hereof as shall be conferred by the laws of the several jurisdictions in which the same shall be filed, recorded or deposited, or

in which any Units shall be located, and any rights arising out of the markings on the Units.

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

TRAILER TRAIN COMPANY,

by

\_\_\_\_\_  
Treasurer

[Corporate Seal]  
Attest:

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

MERIDIAN TRUST COMPANY, not in its individual capacity, but solely as Trustee,

by

\_\_\_\_\_  
Authorized Officer

[Corporate Seal]  
Attest:

\_\_\_\_\_  
Authorized Officer



TRAILER TRAIN COMPANY  
SCHEDULE A TO LEASE NO. 30

[P81315]

<u>Builder/Car Type</u>	<u>Contract No.</u>	<u>Number of Cars</u>	<u>Car Numbers (Inclusive)</u>	<u>Estimated Unit Price</u>	<u>Total</u>	<u>Estimated Month of Delivery</u>
Thrall Car Manufacturing Co.:						
Center-beam flatcars - TIZX	T-5A87-T	16	86707, 86774, 86776, 86790 - 86792 86797 - 86806	\$ 42,200	\$ 675,200	January 1988
	T-4087-T	25	86807 - 86831	44,500	1,112,500	September 1988
Bethlehem Steel Corp.:						
Five-platform articulated IMPACT flatcars for carrying trailers - TTLX	T-6087-B	100	60200 - 60299	123,790	12,379,000	March - May 1988
	"	100	60300 - 60399	122,900	12,290,000	May - August 1988
Five platform articulated Spine flatcars for carrying containers - NPTX	T-1088-B	5	67090 - 67094	96,383	481,915	September 1988
Gunderson, Inc.:						
Center-beam flatcars - TIZX	T-4087-F	25	83800 - 83824	48,687	1,217,175	June 1988
Trinity Industries, Inc.:						
Five-platform articulated Spine flatcars for carrying containers - NPTX	T-5A87-P	38	66060 - 66097	105,117	3,994,446	July - Sept. 1988
Single-platform Front Runner flatcars for carrying trailers - TTUX	T-1088-P	353	145595-145947	30,780	10,865,340	Sept. - Nov. 1988
		<u>662</u>			<u>\$43,015,576</u>	

Basic Rent Schedule  
Percentage of Purchase Price\*

<u>Rental Date</u>	<u>Advance Rent</u>	<u>Arrears Rent</u>
Aug 1, 1989	0.000000	3.871903
Feb 1, 1990	0.000000	5.575129
Aug 1, 1990	0.000000	3.785890
Feb 1, 1991	0.000000	5.661142
Aug 1, 1991	0.000000	3.691190
Feb 1, 1992	0.000000	5.755842
Aug 1, 1992	0.000000	3.586925
Feb 1, 1993	0.000000	5.860107
Aug 1, 1993	0.000000	3.472130
Feb 1, 1994	0.000000	5.974903
Aug 1, 1994	0.000000	3.345740
Feb 1, 1995	0.000000	6.101293
Aug 1, 1995	0.000000	3.206584
Feb 1, 1996	0.000000	6.240448
Aug 1, 1996	0.000000	3.053374
Feb 1, 1997	0.000000	6.393658
Aug 1, 1997	0.000000	4.320622
Feb 1, 1998	7.160958	7.225751
Aug 1, 1998	4.385414	0.000000
Feb 1, 1999	7.560621	0.000000
Aug 1, 1999	3.985752	0.000000
Feb 1, 2000	9.012594	0.000000
Aug 1, 2000	2.533779	0.000000
Feb 1, 2001	10.036157	0.000000
Aug 1, 2001	1.510216	0.000000
Feb 1, 2002	10.489616	0.000000
Aug 1, 2002	1.056756	0.000000
Feb 1, 2003	10.991311	0.000000
Aug 1, 2003	0.555061	0.000000
Feb 1, 2004	11.546373	0.000000
Aug 1, 2004	0.000000	0.000000
Feb 1, 2005	0.000000	0.000000
<u>Renewal Period</u>		
Aug 1, 2005	0.000000	2.624176
Feb 1, 2006	0.000000	2.624176
Aug 1, 2006	0.000000	2.624176
Feb 1, 2007	0.000000	2.624176
Aug 1, 2007	0.000000	2.624176
Feb 1, 2008	0.000000	2.624176
Aug 1, 2008	0.000000	2.624176
Feb 1, 2009	0.000000	2.624176

\*As defined in Article 4 of the CSA.

Casualty Values\*

<u>Dates</u>	<u>Casualty Values as Percentage of Purchase Price</u>
Feb 1, 1989	104.93465
Aug 1, 1989	110.24902
Feb 1, 1990	111.43194
Aug 1, 1990	110.60626
Feb 1, 1991	111.39262
Aug 1, 1991	110.06333
Feb 1, 1992	110.58509
Aug 1, 1992	108.84188
Feb 1, 1993	109.19172
Aug 1, 1993	107.07924
Feb 1, 1994	107.27683
Aug 1, 1994	104.76721
Feb 1, 1995	104.80520
Aug 1, 1995	101.91167
Feb 1, 1996	101.91167
Aug 1, 1996	98.72459
Feb 1, 1997	98.73681
Aug 1, 1997	95.28778
Feb 1, 1998	93.88959
Aug 1, 1998	81.91686
Feb 1, 1999	79.91372
Aug 1, 1999	74.54970
Feb 1, 2000	72.73181
Aug 1, 2000	65.61703
Feb 1, 2001	65.02474
Aug 1, 2001	56.60812
Feb 1, 2002	56.83793
Aug 1, 2002	47.76434
Feb 1, 2003	48.26767
Aug 1, 2003	38.48932
Feb 1, 2004	39.31851
Aug 1, 2004	28.78480
Feb 1, 2005 and thereafter	30.00000

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

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[CS&M Ref. 2164-804]

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of August 15, 1988

Between

MERIDIAN TRUST COMPANY,  
as Trustee,

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
as Agent

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ASSIGNMENT OF LEASE AND AGREEMENT

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\*This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of this document.

ASSIGNMENT OF LEASE AND AGREEMENT dated as of August 15, 1988 ("Assignment"), by and between MERIDIAN TRUST COMPANY, not in its individual capacity but solely as Trustee (together with its successors and assigns, "Trustee") acting under a Trust Agreement dated as of the date hereof ("Trust Agreement") with TECO INVESTMENTS, INC. ("Owner") and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity but solely as agent ("Agent") for certain institutional investors ("Investors") under a Participation Agreement dated as of the date hereof among the Owner, the Trustee, the Agent, the Investors and TRAILER TRAIN COMPANY ("Lessee").

WHEREAS the Trustee is entering into a Conditional Sale Agreement dated as of the date hereof ("CSA") with Trailer Train Company (in such capacity, "Seller") providing for the sale to the Trustee of such of the units of railroad equipment to be acquired for the Trustee ("Units") described in the Annex B thereto as are delivered to and accepted by the Trustee thereunder and the CSA is being assigned to the Agent by the Seller;

WHEREAS the Trustee and the Lessee have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter, together with the amendments and supplements thereto, being called "Lease"), providing for the leasing by the Trustee to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Trustee under the CSA and as an inducement to the Investors to invest in the CSA Indebtedness as defined in the CSA, the Trustee agrees to assign for security purposes its rights in, to and under the Lease to the Agent.

NOW, THEREFORE, in consideration of the payments to be made, the parties hereto agree as follows:

1. The Trustee hereby assigns, transfers and sets over unto the Agent, as collateral security for the payment and performance of the Trustee's obligations under the CSA all the Trustee's right, title and interest, powers, privileges, and other benefits under the Lease (including those inuring to the benefit of the Owner and the Owner's assigns by reason of Section 12 of the Lease), including, without limitation, the immediate right to receive and collect all

rentals, profits and other sums payable to or receivable by the Trustee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity (except sums which by the express terms of the Lease are payable directly to the Trustee or the Owner pursuant to Sections 6, 9 and 19 of the Lease), liquidated damages, or otherwise (such moneys being hereinafter called "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 Trustee is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Trustee hereby irrevocably authorizes and empowers the Agent in its own name, or in the name of its nominee, or in the name of the Trustee or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Trustee is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Agent agrees to accept any Payments made by the Lessee for the account of the Trustee pursuant to the Lease and, to the extent received, the Agent will apply such Payments to satisfy the obligations of the Trustee under the CSA then due and payable, subject to the limitations contained in the last paragraph of Article 4 of the CSA, and any balance held by the Agent hereunder for the account of the Trustee shall be deemed to be held in trust for the Trustee and shall be paid immediately to and retained by the Trustee. If the Agent shall not receive any rental payment under the first paragraph of Section 3 of the Lease or any payment of Casualty Values under Section 7 of the Lease when due, the Agent shall promptly notify the Trustee by telegraphic communication at the address set forth in the Lease. Failure to so notify the Trustee shall not affect the rights and remedies of the Agent hereunder or under the CSA; except that the Agent may not make a Declaration of Default (as defined in the CSA) on the basis of an event of default under subparagraph (a) of Article 15 of the CSA arising solely by reason of the failure of the Lessee to make any such rental payment which under the provisions of clause (e) of Article 15 of the CSA is permitted to be cured by the Trustee, unless such event of default is not remedied within 5 days after notification is given as aforesaid.

2. This Assignment is executed only as security for the obligations of the Trustee under the CSA and, therefore, the execution and delivery of this Assignment shall not subject the Agent to, or transfer, or pass, or in any

way affect or modify the liability of the Trustee under the Lease, it being agreed that, notwithstanding this Assignment or any subsequent assignment, all obligations of the Trustee to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Trustee or persons other than the Agent.

3. To protect the security afforded by this Assignment, the Trustee agrees as follows:

(a) The Trustee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Trustee; without the written consent of the Agent, the Trustee 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 which are intended to satisfy the obligations of the Trustee under the CSA, 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 so amending, modifying or terminating the Lease and the Trustee agrees that any such amendment, modification or termination thereof without such consent shall be void.

(b) Should the Trustee fail to make any payment or to do any act which this Assignment requires the Trustee to make or do, then the Agent, but without obligation so to do, after first making written demand upon the Trustee and affording the Trustee a reasonable period of time within which to make such payment or do such act, but without releasing the Trustee from any obligation hereunder, may make or do the same in such manner and to such extent as the Agent may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Agent, and also the right to perform and discharge each and every obligation, covenant and agreement of the Trustee contained in the Lease; and in exercising any such powers, the Agent may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Trustee will reimburse the Agent for such costs, expenses and fees; provided, however, that the obligations of the Trustee

to make reimbursements under this Section 3 are subject to the last paragraph of Article 4 of the CSA.

4. The Trustee does hereby constitute the Agent the Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Trustee, 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 Trustee 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 the Agent may deem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all the Trustee's obligations under the CSA, this Assignment, and all rights herein assigned to the Agent in respect thereof, shall terminate, and all estate, right, title and interest of the Agent in and to the Lease shall revert to the Trustee without further act or deed, but the Agent shall execute and deliver such documents as the Trustee may reasonably request in order to confirm, or make clear upon public records, such termination and/or reversion.

6. The Trustee will, from time to time, do and perform any other act and will execute, acknowledge and deliver any and all further instruments required by law and reasonably requested by the Agent in order to confirm or further assure the interests of the Agent hereunder.

7. The Agent 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. The Agent will give written notice to the Trustee, the Owner and the Lessee of any such assignment.

8. 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 49 U.S.C. § 11303.

9. The Trustee shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Agent at its address set forth in Article 20 of the CSA, or at such other address as the Agent shall designate.

10. The Agent hereby agrees with the Trustee that, so long as no event of default, or any event which with lapse of time or notice or both would constitute such an event of default, under the CSA has occurred and is then continuing, the Agent will not 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 Trustee to the Agent by this Assignment, except the right to receive and apply the Payments as provided in Section 1 hereof, and that, subject to the terms of the Lease and the CSA, the Trustee may, so long as no such event of default under the CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies arising out of subparagraph (a) of the first paragraph of Section 10 of the Lease; provided, however, the Trustee shall not, without the prior written consent of the Agent, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of subparagraph (b) of said Section 10.

11. It is expressly 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 Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by the financial institution acting as Trustee hereunder or for the purpose or with the intention of binding said financial institution personally but are made and intended for the purpose of binding only the Trust Estate as that term is used in the Trust Agreement and this Assignment is executed and delivered by the Trustee solely in the exercise of the powers expressly conferred upon the Trustee under the Trust Agreement; and that no personal liability or responsibility is assumed by or shall at any time be asserted or enforceable against said financial institution on account of any representation, undertaking or agreement hereunder of said financial institution, acting in its capacity as Trustee, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Agent and by all persons claiming by, through or under the Agent; provided, however, that the Agent or any person claiming by, through or under the Agent, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

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.

MERIDIAN TRUST COMPANY,  
not in its individual capacity  
but solely as Trustee,

by

[Corporate Seal]  
Attest:

\_\_\_\_\_  
Authorized Officer

\_\_\_\_\_  
Authorized Officer

MERCANTILE-SAFE DEPOSIT AND  
TRUST COMPANY, not in its  
individual capacity, but solely  
as Agent,

by

[Corporate Seal]  
Attest:

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

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



## LESSEE'S CONSENT AND AGREEMENT

The undersigned, a corporation duly incorporated under the laws of the State of Delaware, the Lessee named in the Lease ("Lease") referred to in the foregoing Assignment of Lease and Agreement ("Assignment"), hereby acknowledges receipt of a copy of the Assignment, consents to all the terms and conditions of the Assignment and agrees as follows:

(1) subject to the terms and conditions of the Assignment, to pay all Payments (as defined in the Assignment) due and to become due to the Trustee under the Lease directly to MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as agent ("Agent") under the Participation Agreement referred to in the Assignment, to be applied as provided in the Assignment, by bank wire transfer of immediately available funds to Mercantile-Safe Deposit and Trust Company, Baltimore, Maryland, for credit to its Corporate Trust Account No. 620081-8 with notation that the funds are "Re: TTX 8/15/88" (or such other address as may be furnished in writing to the undersigned by the Agent);

(2) agrees, subject to the terms and conditions of the Assignment, that the Agent shall be entitled to the benefits of, and to receive and enforce performance of, all of the covenants to be performed by the undersigned under the Lease as though the Agent were named therein as the Trustee;

(3) agrees that the Agent shall not, by virtue of the Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise;

(4) agrees that the Lease shall not, without the prior written consent of the Agent, be amended, terminated or modified, or any action be taken or omitted by the undersigned, the taking or omission of which might result in any alteration or impairment of the obligations of the Lessee under the Lease which are intended to satisfy the obligations of the Trustee under the CSA, the obligations of the Trustee under the Assignment or the obligations of the Lessee under this Consent and Agreement or of any of the rights created by any thereof; and

(5) will do all such acts and execute and deliver all such further assurances required to be done and/or executed and delivered by it pursuant to the provisions of the Participation Agreement and the exhibits thereto.

This Agreement may be executed in several counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

This Consent and Agreement, when accepted by the Agent by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of New York and, for all purposes, shall be construed in accordance with the laws of said State.

Dated as of August 15, 1988.

[Corporate Seal]

Attest:

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

TRAILER TRAIN COMPANY,

by

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

Accepted:

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, not in its individual capacity, but solely as Agent under the Participation Agreement referred to above,

[Corporate Seal]

Attest:

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

by

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

of its possession or control, any of the Units, except to the extent permitted by the provisions of this Section 12.

Nothing in this Section 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of the United States of America or any state thereof or the District of Columbia (which was solvent immediately prior to such assignment and transfer and which shall have specifically assumed the obligations of the Lessee hereunder, under the Consent and under the Participation Agreement by an appropriate instrument in writing) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease.

SECTION 13. Renewal Option and Purchase Option.

(a) Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Trustee not less than 120 days prior to the end of the original term of this Lease elect to extend the term of this Lease in respect of all, but not less than all, of the Units then covered by this Lease for one additional four-year period commencing on the scheduled expiration of such original term. The rents for such extended term shall be payable semiannually on each February 1 and August 1, beginning August 1, 2005 and ending February 1, 2009 in an amount per Unit equal to the amounts set forth in Schedule B.

(b) Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by written notice delivered to the Trustee not less than the 120 days prior to the end of the original or the 4-year extended term of this Lease, elect to purchase all, but not less than all, of the Units then covered by this Lease for an amount equal to the lesser of the Fair Market Value thereof or (i) in the case of a purchase at the end of the original term of this Lease, 48.24% of the aggregate Purchase Price of such Units or (ii) in the case of a purchase at the end of the 4-Year extended term of this Lease, 40.28% of the aggregate purchase price of such Units, which amount shall be paid to the Owner in immediately available funds on the last day of the original or extended term of this Lease, as the case may be. Fair Market Value

shall be determined on the basis, and shall be equal in amount to, the price which would obtain in an arm's-length transaction between an informed and willing buyer and an informed and willing seller under no compulsion to buy or sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such price and it shall be assumed that all the Units have been assembled in one place and are not encumbered by this Lease. If, after 30 days from the giving of notice by the Lessee of the Lessee's election to purchase such Units, 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 following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 30 days after such notice is given, appoint a third independent appraiser. If no such third appraiser is appointed within 30 days after such notice is given either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Value of the Units within 45 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Value of the single appraiser appointed shall be final. If 3 appraisers shall be appointed, the determination of the appraiser which differs most from the other 2 appraisers shall be excluded, the remaining 2 determinations shall be averaged and such average shall be final and binding upon the parties hereto as the Fair Market Value. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Value and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Trustee.

SECTION 14. Return of Units upon Expiration of Term. On or prior to the termination of the term of this Lease or as soon as practicable on or after the termination of the term of this Lease and in any event not later than 90 days after the termination of the term of this Lease the Lessee will, at its own cost and expense, at the request of the Trustee, cause each Unit to be transported to such point or points (not in excess of three) as shall be reasonably designated by the Trustee immediately prior to such termination and arrange for the Trustee to store each Unit on any lines of railroad or premises approved by the Trustee for a period commencing on the date of its arrival at any such point and extending thereafter to a date not later than 180 days from the date at which at least 90% of the Units are first placed in storage pursuant to this Section 14; the assembly, delivery, storage and transporting of the Units to be at the expense and risk of the Lessee, and the Lessee will during this period maintain the insurance required by Section 7 of this Lease to be maintained. During any such storage period the Lessee will permit the Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable except in the case of negligence or intentional act of the Lessee or of its employees or agents and, except to the extent otherwise provided by law, for any injury to or the death of any person exercising, either on behalf of the Trustee or any prospective purchaser or lessee, the rights of inspection granted under this sentence. The assembly, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to cause the assembly, delivery, storage and transporting of the Units. If any of the Units suffers a Casualty Occurrence during any storage period provided for in this Section 14, the Lessee shall pay to the Trustee the Casualty Value of such Unit as determined in accordance with Section 7 hereof. In the event that by the 90th day after the termination of the original or any extended term of this Lease the Lessee has not, at the request of the Trustee, caused at least 90% of the Units to be transported to such point or points as shall have been designated by the Trustee pursuant to this Section 14, the Lessee shall pay to the