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CLIC OFFICE OF
THE SECRETARY

DEC 28 1 37 PM '88

MOTOR OPERATING UNIT

December 28, 1988

No. 8-363A040

Date DEC 28 1988

Fee \$ 13.00

ICC Washington, D. C.

The Honorable Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION

DEC 28 1988 1:45 PM
1 6112
RECORDATION NO. Filed 1425

Dear Secretary McGee:

Enclosed for recordation, under the provisions of 49 U.S.C. §11303(a) and the regulations thereunder, are an original and one counterpart of a Lease Agreement Of Railroad Equipment, dated as of December 22, 1988, between General Electric Capital Corporation ("Lessor") and Chicago, Central & Pacific Railroad Company ("Lessee"), a primary document.

The names and addresses of the parties to the enclosed Lease Agreement of Railroad Equipment are as follows:

LESSOR: General Electric Capital Corporation
1600 Summer Street
Stamford, Connecticut 06905

LESSEE: Chicago, Central & Pacific
Railroad Company
1006 East 4th Street
Waterloo, Iowa 50703

A general description of the railroad locomotives covered by the enclosed document is attached hereto as Schedule I.

The undersigned is the attorney-in-fact of General Electric Capital Corporation. Please return the original of the enclosed document to John K. Maser III, Esquire, Donelan, Cleary, Wood & Maser, P.C., Suite 850, 1275 K Street, N.W., Washington, D.C. 20005-4006 or to the bearer hereto.

Rec'd Maser
Donelan

Letter to Secretary McGee
Page Two
December 28, 1988

Also enclosed is a remittance in the amount of \$13.00 for the required recording fee.

A short summary of the document to appear in the index follows:

PRIMARY DOCUMENT

Lease Agreement of Railroad Equipment, dated as of December 22, 1988, between General Electric Capital Corporation ("Lessor") and Chicago, Central & Pacific Railroad Company ("Lessee"), relating to seventy-four (74) General Motors GP-8, GP-9, GP-10, GP-18, GP-28, SW-7R, SW-13 and SW-14 road and switch locomotives bearing Lessee's identification marks "CC" and Revised Serial Nos. 1504, 1505, 1583, 1584, 1585, 1589, 1590, 1591, 1592, 1593, 1702, 1705, 1712, 1719, 1723, 1732, 1733, 1735, 1739, 1741, 1744, 1745, 1755, 1756, 1758, 1759, 1763, 1765, 1777, 1779, 1793, 1711, 1714, 1721, 1734, 1750, 1749, 1743, 1775, 1769, 1770, 1771, 1789, 1781, 1788, 1790, 1794, 1799, 1710, 1633, 1734, 1654, 1758, 1760, 1669, 1676, 1800, 1802, 1805, 1806, 1808, 1813, 1814, 1820, 1826, 1827, 1828, 1838, 1839, 1840, 1200, 1300, 1301, and 1228.

Respectfully submitted,

BY:



John K. Maser III
Attorney-In-Fact

004/207-HD-#1
Enclosure
286-8

Schedule I
Page 1 of 2

Description of Locomotives

<u>Type of Equipment</u>	<u>AAR Mechanical Designation</u>	<u>Number</u>	<u>Identifying Marks</u>	<u>Revised Serial Numbers</u>
General Motors GP-8, 1500 horsepower, 4-axle road locomotive	B-B	10 locomotives	Marked "CC" on both sides of locomotive	1504, 1505, 1583, 1584, 1585, 1589, 1590, 1591, 1592, and 1593, corresponding to ICG original serial numbers 7904, 7905, 7983, 7984, 7985, 7989, 7990, 7991, 7992, and 7993 (B-1970-1972)
General Motors GP-10, 1750 horsepower, 4-axle road locomotive	B-B	45 locomotives	Marked "CC" on both sides of locomotive	1702, 1705, 1712, 1719, 1723, 1732, 1733, 1735, 1739, 1741, 1744, 1745, 1755, 1756, 1758, 1759, 1763, 1765, 1777, 1779, 1793, 1711, 1714, 1721, 1734, 1750, 1749, 1743, 1775, 1769, 1770, 1771, 1789, 1781, 1788, 1790, 1794, 1799, 1710, 1633, 1734, 1654, 1758, 1760, and 1669, corresponding to ICG original serial numbers 8002, 8005, 1812, 8019, 8023, 8032, 8033, 8035, 8039, 8041, 8044, 8045, 8055, 8056, 8058, 8059, 8063, (B 1968-72) 8065, 8077, 8079, 8093, 8111, 8114, 8121, 8134, 8150, 8159, 8163, 8165, 8169, 8170, 8171, 8179, 8181, 8188, 8190, 8194, 8199, 8211, 8233, 8234, 8254, 8258, 8260, and 8269
General Motors GP-9, 1750 horsepower, 4-axle road locomotive	B-B	1 locomotive	Marked "CC" on both sides of locomotive	1676, corresponding to ICG original serial number 9376 (B-1959)

<u>Type of Equipment</u>	<u>AAR Mechanical Designation</u>	<u>Number</u>	<u>Identifying Marks</u>	<u>Revised Serial Numbers</u>
General Motors GP-18, 1750 horsepower, 4-axle road locomotive	B-B	11 locomotives	Marked "CC" on both sides of locomotive	1800, 1802, 1805, 1806, 1808, 1813, 1814, 1820, 1826, 1827, and 1828, corresponding to ICG original serial numbers 9400, 9402, 9405, 9406, 9408, 9413, 9414, 9420, 9426, 9427, and 9428 (B-1960-63)
General Motors GP-28, 1750 horsepower, 4-axle road locomotive	B-B	3 locomotives	Marked "CC" on both sides of locomotive	1838, 1839, and 1840, corresponding to ICG original serial numbers 9438, 9439, and 9440 (B-1964)
General Motors SW-7R, 1200 horsepower, 4-axle switch locomotive	B-B	1 locomotive	Marked "CC" on both sides of locomotive	1200, corresponding to ICG original serial number 1200 (B-1967)
General Motors SW-13, 1300 horsepower, 4-axle switch locomotive	B-B	2 locomotives	Marked "CC" on both sides of locomotive	1300 and 1301, corresponding to ICG original serial numbers 1300 and 1301 (B-1971)
General Motors SW-14, 1300 horsepower, 4-axle switch locomotive	B-B	1 locomotive	Marked "CC" on both sides of locomotive	1228, corresponding to ICG original serial number 1428 (B-1980)

INTERSTATE COMMERCE COMMISSION

DEC 29 1988 1-45 PM
6112
REC'D 1425

EXHIBIT I

LEASE AGREEMENT OF RAILROAD EQUIPMENT

dated as of

December 22, 1988

between

GENERAL ELECTRIC CAPITAL CORPORATION,

LESSOR

and

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY,

LESSEE

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Exhibit B - Tax Indemnification Agreement

Exhibit C - Certificate of Lessee's Acceptance

Exhibit D - Certificate of Lessor's Cost

LEASE AGREEMENT, dated as of December __, 1988, between CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY, a Delaware corporation (the "Lessee"), and GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation (the "Lessor").

WHEREAS, the Lessor is entering into a Sale Agreement, dated as of the date hereof, substantially in the form of Exhibit A hereto (the "Sale Agreement") with the Lessee, wherein the Lessee has agreed to sell and deliver to the Lessor the units of railroad equipment described in Schedule I hereto (the "Equipment"); and

WHEREAS, the Lessee desires to lease such number of units of Equipment (the "Units") as are delivered and accepted and settled for under the Sale Agreement at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the Lessor and the Lessee agree as follows:

1. Definitions.

"Affiliate" shall mean with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with, such Person. For the purposes of this definition, "control" (including with correlative meanings the terms "controlling", "controlled by" and "under common control with"), as used with respect to any Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise. Unless otherwise specified, "Affiliate" means on Affiliate of the Company.

"Applicable Laws" shall have the meaning specified in Section 13 of this Agreement.

"Appraisal Procedure" shall mean the procedure specified in the succeeding sentences for determining an amount or value. If either party shall give written notice to the other requesting determination of such amount or value by appraisal, the parties shall consult for the purpose of appointing a mutually acceptable qualified independent appraiser. If the parties shall be unable to agree on an appraiser within 30 days of the giving of such notice, such

amount or value shall be determined by a panel of three independent appraisers selected on or prior to the 40th day after the giving of such notice, one of whom shall be selected by the requesting party, another of whom shall be selected by the other party, and the third of whom shall be selected by the American Arbitration Association (or its successors) if such other two appraisers shall be unable to agree upon a third appraiser within 30 days of the giving of such notice. The appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine such amount or value within 45 days after such appointment and such determination shall be final and binding upon the parties. If three appraisers shall be appointed, the determination of the appraiser which shall differ most from the average of the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such average shall constitute the determination of the appraisers. The Lessee shall pay all fees and expenses relating to an appraisal for any purpose under this Agreement; provided, however, that if a panel of three appraisers is selected, the Lessor and the Lessee shall each pay the fees and expenses of the appraiser selected by it and fifty percent (50%) of the fees and expenses of the third appraiser.

"Basic Rent" shall have the meaning specified in Section 4(b) of this Agreement.

"Basic Lease Term" shall have the meaning specified in Section 3 of this Agreement.

"Bill of Sale" shall mean the Bill of Sale, substantially in the form of Annex A to the Sale Agreement.

"Business Day" shall mean any day excluding Saturday, Sunday or any day on which banking institutions located in any of the States of New York, Iowa or Connecticut are authorized by law or other governmental action to close.

"Certificate of Lessee's Acceptance" shall mean the Certificate of Lessee's Acceptance, substantially in the form of Exhibit C hereto.

"Certificate of Lessor's Cost" shall mean the Certificate of Lessor's Cost, substantially in the form of Exhibit D hereto.

"Claim" shall have the meaning specified in Section 9 of this Agreement.

"Closing Date" shall mean December 22, 1988, or such other date, not later than December 30, 1988, as the Lessor and the Lessee agree in writing.

"Code" shall mean the Internal Revenue Code of 1986, as amended or substituted for, and the regulations promulgated thereunder.

"Default" shall mean an event or condition which, with notice or lapse of time or both, would become an Event of Default.

"Equipment" shall mean all items of property at any time constituting the locomotives subject to this Agreement including, without limitation, the equipment described in Schedule I hereto and any and all components which may from time to time be incorporated or installed in or attached to the Equipment and all materials and supplies and all other property of any nature appertaining thereto.

"Equipment Cost" shall mean the aggregate amount paid by the Lessor for the purchase of the Equipment described in an invoice covering such Equipment, plus any separately invoiced acquisition, installation or other charge properly imposed by the Lessee which shall be included in capitalized costs of the Equipment in accordance with sound accounting practice.

"Event of Default" shall have the meaning specified in Section 14 of this Agreement.

"Expiration Date" shall mean December 31, 1996.

"Fair Market Rental Value" shall mean the fair market rental value which would be obtained in an arm's-length transaction between an informed and willing lessee and an informed and willing lessor, each unrelated to the other, in either case under no compulsion to lease, for the Equipment, on the terms set forth, or referred to, in Section 18 for the Renewal Lease Term, assuming, in the determination of such fair market rental value, that (i) such lessee has all rights of the Lessee under the Operative Documents to use the Equipment and necessary ancillary rights in connection with the operation of the Equipment and (ii) the Equipment is in the condition and repair required to be maintained by the terms of this Agreement.

"Fair Market Sales Value" shall mean the fair market sales value which would be obtained in an arm's-length transaction between an informed and willing buyer and an informed and willing seller, each unrelated to the other, under no compulsion, respectively, to buy and sell, calculated at the value for the use of the Equipment, assuming, in the determination of such fair market sales value, that (i) such buyer has (A) all rights of the Lessee under the Operative Documents to which it is a party, including the right to use the Equipment and (B) all necessary ancillary rights in connection with the operation of the Equipment and (ii) the Equipment is in the condition and repair required to be maintained by the terms of this Agreement.

"Government" shall have the meaning specified in Section 10 of this Agreement.

"Index Rate" shall mean, for any date, the most recent published annual yield on 30-day commercial paper (or the greatest of such yields if more than one is published) placed by dealers, as quoted in The Wall Street Journal under "Money Rates" or, if for any reason The Wall Street Journal shall fail to publish such quotes, in such other financial publication as the Lessor may from time to time select, in each case as such yield is determined by the Lessor as of the date three Business Days prior to such date and thereafter specified by notice to the Lessee.

"Interim Lease Term" shall have the meaning specified in Section 3 of this Agreement.

"Lessee" shall mean Chicago, Central & Pacific Railroad Company and, to the extent permitted in Section 16 of this Agreement, its successors and assigns.

"Lessor" shall mean General Electric Capital Corporation and, to the extent permitted in Section 16 of this Agreement, its successors and assigns.

"Lessor Liens" shall mean any Liens which may result from acts of or claims against the Lessor, in its individual capacity, not related or connected to the ownership of the Equipment, its status as Lessor under this Agreement or any other transaction contemplated by any of the Operative Documents.

"Lessor's Cost" shall mean the sum of the Equipment Cost and the Transaction Costs.

"Lien" shall mean any lien, mortgage, pledge, security interest, charge, or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof and any agreement to give any security interest).

"Net Economic Return" shall mean the Lessor's after-tax yield, periodic net after-tax cash flows and return on investment, computed on the basis of the assumptions, including the Tax Assumptions, that were used by the Lessor in originally evaluating the transactions contemplated by this Agreement.

"Officers' Certificate" shall mean, as to any corporation, a certificate of the President or any Vice President or Assistant Vice President and the Secretary or Assistant Secretary or Treasurer or Assistant Treasurer of such corporation.

"Operative Documents" shall mean this Agreement, the Certificate of Acceptance, the Sale Agreement, the Bill of Sale and the Tax Indemnification Agreement.

"Overdue Rate" shall mean a rate of five percent (5%) over the Index Rate or such lesser rate as may be permitted by applicable law.

"Owner" shall have the meaning specified in the Tax Indemnification Agreement.

"Payment Date" shall mean each June 30 and December 31, commencing June 30, 1989, during the Term of this Agreement.

"Person" shall mean and include any natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any government agency or political subdivision thereof.

"Purchase Agreement" shall mean the Amended and Restated Note and Stock Purchase Agreement, dated as of December 20, 1988, between the Lessor and the Lessee.

"Renewal Rent" shall mean the rent payable pursuant to Section 18(a) of this Agreement.

"Renewal Lease Term" shall have the meaning specified in Section 3 of this Agreement.

"Rent" shall mean Basic Rent, Renewal Rent and Supplemental Rent.

"Sale Agreement" shall mean the Sale Agreement between the Lessor and the Lessee, substantially in the form of Exhibit A hereto.

"SEC" shall mean the Securities and Exchange Commission or such successor agency as shall be administering the Federal securities laws.

"Stipulated Loss" shall have the meaning specified in Section 10 of this Agreement.

"Stipulated Loss Value" shall mean, with respect to any Unit, an amount determined at any time equal to that percentage as set forth in Schedule III to the Agreement multiplied by the Equipment Cost of such Unit.

"Subsidiary" of any Person shall mean any corporation, partnership, joint venture, association or other business entity of which more than 50% of the total voting power of shares of stock or other interests therein entitled to vote in the election of members of the board of directors, partnership committee, board of managers or trustees or other managerial body thereof is at the time owned or controlled directly or indirectly, by such Person or a combination thereof. Unless otherwise specified, "Subsidiary" means a Subsidiary of the Company.

"Supplemental Rent" shall mean any and all amounts, liabilities and obligations, other than Basic Rent and Renewal Rent, which the Lessee assumes or agrees to pay under any Operative Document (including, without limitation, damages for breach of any covenants, representations, warranties or agreements therein) to the Lessor or any other Person, including, without limitation, Stipulated Loss Value and Fair Market Sales Value payments and any amounts under the Tax Indemnification Agreement.

"Tax Assumptions" shall have the meaning specified in the Tax Indemnification Agreement.

"Tax Indemnification Agreement" shall mean the Tax Indemnification Agreement between the Lessor and the Lessee, substantially in the form of Exhibit B hereto.

"Taxes" shall have the meaning specified in Section 9 of this Agreement.

"Term" shall have the meaning specified in Section 3 of this Agreement.

"Termination Value" shall mean, with respect to any Unit, an amount determined as of the date of termination of this Agreement equal to that percentage as set forth in Schedule II to the Agreement multiplied by the Equipment Cost of such Unit.

"Transaction Costs" shall mean the fees, expenses, disbursements and costs incurred by the Lessor in connection with the preparation, execution and delivery of the Operative Documents and the purchasing and leasing of the Equipment by the Lessor, including, without limitation,

(a) the reasonable fees, expenses and disbursements of counsel referred to in this Agreement and any other counsel or special counsel for the Lessor for services rendered in connection with any such transactions;

(b) all other expenses in connection with such transactions, including, without limitation, title insurance costs, accounting fees and expenses, consulting and appraisal expenses, printing and other document reproduction and distribution expenses and all fees, taxes and other charges payable in connection with the recording or filing of instruments and financing statements described in this Agreement or any of the Operative Documents; and

(c) any and all fees, expenses and disbursements referred to in paragraphs (a) and (b) above which shall have been paid by the Lessor and reimbursed to the Lessor for its reasonable out-of-pocket expenses in connection with such transactions.

2. Purchase and Lease of Equipment.

(a) On the Closing Date, the Lessee shall assign, set over and sell all of its right, title and interest in and to the Equipment, by executing and delivering to the Lessor

the Sale Agreement and Bill of Sale, substantially in the form of Exhibit A hereto.

(b) Subject to the terms and conditions set forth in this Agreement, based upon the representations and warranties of the Lessee set forth in this Agreement and in the other Operative Documents, the Lessor shall acquire the Equipment on the Closing Date from the Lessee at the Equipment Cost, which amount shall be paid by the Lessor by the cancellation of \$7,200,000 of existing Indebtedness, as defined in the Purchase Agreement, owed by the Lessee to the Lessor under the Original Master Notes, as defined in the Purchase Agreement. The Lessor shall also pay the amount of the Transaction Costs included in the Lessor's Cost for the Equipment to the Lessee or to such other Person or Persons as may be entitled to receive the same, all as specified in the Certificate of Lessor's Cost delivered on the Closing Date on the condition that it shall be amended and redelivered 90 days after the Closing Date to specify Transaction Costs incurred through the Closing Date and until delivery of such amendment.

(c) On the Closing Date, subject to all the terms and conditions set forth in this Agreement and based upon the representations and warranties of the Lessee set forth in this Agreement and in the other Operative Documents, the Lessor shall lease the Units to the Lessee, and the Lessee shall lease the Units from the Lessor, for the Interim Lease Term and the Basic Lease Term. On the Closing Date, the Lessee shall accept, and shall evidence its acceptance of, the Units pursuant to this Agreement by executing and delivering to the Lessor the Certificate of Lessee's Acceptance.

3. Term of Lease.

The leasing of the Units to the Lessee by the Lessor, the Lessee's right to use the Units and the Lessee's obligation to pay Rent shall commence on the Closing Date and shall continue to and include December 31, 1996, unless terminated or renewed prior to such date pursuant to the terms of this Agreement. The period from and including the Closing Date to January 1, 1989 shall be the "Interim Lease Term" and the period from and including January 1, 1989 to and including December 31, 1996 shall be the "Basic Lease Term." Any period after the Basic Lease Term for which this Agreement is renewed pursuant to Section 18 shall be a "Renewal Lease Term." The word "Term" as used herein shall

be deemed to refer collectively to the Interim Lease Term, the Basic Lease Term and any Renewal Lease Terms, and all provisions of this Agreement shall apply during any Renewal Lease Terms, except as may be otherwise specifically provided in this Agreement or in any subsequent written agreement of the parties.

4. Rental Payments and Adjustments.

(a) Rent During Interim Lease Term. The Lessee shall not owe any installments of periodic Rent to the Lessor with respect to the lease of the Units during the Interim Lease Term.

(b) Basic Rent during the Basic Lease Term. The Lessee shall pay to the Lessor Basic Rent in arrears with respect to the Units semi-annually, on June 30 and December 31, commencing June 30, 1989 and thereafter (the "Payment Dates") during the Basic Lease Term, each such installment to be in the amount of \$698,250 (said rent payable on such Payment Dates being the "Basic Rent"), subject to adjustment as provided in this Section 4.

(c) Basic Rent Adjustments. (i) Basic Rent has been calculated based on the following assumptions: (A) the Equipment Cost is \$7,200,000, (B) the Closing Date for the Equipment and Transaction Costs will be December 20, 1988, (C) the Transaction Costs are \$15,000, are properly includable in the Lessor's basis in the Equipment under Section 1012 of the Code, and are 100% capitalizable, and (D) the Tax Assumptions are unchanged and correct. If any of such assumptions shall prove to have been incorrect, then, upon written notice delivered by the Lessor to the Lessee after the Closing Date, the Basic Rent and the percentages set forth in the attached Schedules II (Termination Values) and III (Stipulated Loss Values) shall be adjusted by the Lessor upward or downward to the extent necessary, as the Lessor shall determine, to cause the Lessor's Net Economic Return to equal the Net Economic Return that would have been realized by the Lessor if such change had not occurred; provided, however, that (I) any such downward adjustment shall only be made to the extent that it does not violate any Internal Revenue Service guidelines and allows this Agreement to continue to be treated as an operating lease as defined in the Internal Revenue Service Guidelines set out in Rev. Proc. 75-21, 1975-1 C.B. 715 as supplemented by Rev. Proc. 75-28, 1975-1 C.B. 752 for U.S. federal income tax purposes, and (II) the Lessor shall attempt in any such adjustment to

minimize the then present value of the remaining Basic Rent payments under this Agreement. Such notice shall include the changed assumptions used to calculate such adjustments.

(ii) Each adjustment to the Basic Rent and corresponding adjustments to Termination Values and Stipulated Loss Values made pursuant to Section 4(c)(i) shall be computed on the same basis used in the calculation of the original Basic Rent and Termination and Stipulated Loss Values. At the request and expense of the Lessee, the Lessor will provide a certificate not later than 20 Business Days prior to the effective date of any such adjustment, signed by an officer of the Lessor, stating that such adjustment has been computed in accordance with the provisions of this Section 4(c)(ii) and at the further request and expense of the Lessee, the Lessor shall furnish to the Lessee not later than 10 Business Days prior to the effective date of any such adjustment, written confirmation by the firm of independent certified public accountants regularly employed by the Lessor or, at the Lessee's option, any other nationally recognized firm of independent certified public accountants selected by the Lessor, that Lessor's calculation of such adjustment has been computed in accordance with the provisions of this Section 4(c)(ii).

(d) Supplemental Rent. The Lessee shall also pay to the Lessor, or to whomsoever shall be entitled thereto, any and all Supplemental Rent promptly as the same shall become due and owing and, in the event of any failure on the part of the Lessee to pay any Supplemental Rent, the Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of Basic Rent. The Lessee shall also pay to the Lessor, on demand, as Supplemental Rent, to the extent permitted by applicable law, interest at the Overdue Rate on any part of any installment of Basic Rent (including any adjustment thereto payable by the Lessee) not paid when due for any period for which the same shall be overdue and on any Supplemental Rent not paid when due or demanded by the Lessor, for the period commencing with the day on which such payment was due or demanded until but not including the date on which the same shall be paid (unless such payment shall be made after 11:00 A.M., New York City time, on such date of payment, in which case such date of payment shall be included).

(e) Payment to the Lessor; Non-Business Day Due Date. All Basic Rent, Renewal Rent and Supplemental Rent

payable to the Lessor shall be paid by the Lessee to the Lessor prior to 11:00 A.M., New York City time, on the date of payment, by wire transfer of immediately available funds to Manufacturers Hanover Trust Company, 4 New York Plaza, New York, New York, Account of General Electric Capital Corporation, Transportation and Industrial Funding, Account No. 135-0-70380 in the currency of the United States of America, or in such manner and at such place as the Lessor may otherwise elect upon at least three (3) Business Days notice to the Lessee. Whenever any payment to be made under this Agreement shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in computing interest, if any, in connection with such payment.

5. Net Lease; No Setoff, Counterclaims, etc. This Agreement is a net lease and the Lessee shall not be entitled to any abatement of Basic Rent, Renewal Rent or Supplemental Rent or setoff against or recoupment or reduction of Basic Rent, Renewal Rent or Supplemental Rent, including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor under this Agreement or otherwise, except as otherwise provided in Section 6 of the Tax Indemnification Agreement. The Lessee's obligations hereunder, including its obligations to pay all Basic Rent, Renewal Rent or Supplemental Rent and other amounts hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Agreement shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatever 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 invalidity or unenforceability or lack of due authorization by the Lessee of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that, so long as the Lessee's right to quiet enjoyment of the Units is not interfered with by the Lessor or any party claiming under the Lessor, except as provided in Section 10 hereof, the Basic Rent, Renewal Rent or Supplemental Rent 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 Agreement. To the extent permitted by applicable law, unless the Lessee has made each and every payment of Basic Rent, Renewal Rent, Supplemental Rent or other payment due hereunder, 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 or to recover all or any part of any Basic Rent, Renewal Rent, Supplemental Rent or other payment made by the Lessee hereunder, except in accordance with the express terms hereof or as otherwise provided in Section 6 of the Tax Indemnification Agreement.

6. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Schedule I hereto, 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 filed with the Interstate Commerce Commission", with appropriate changes thereof as from time to time may be required by law, in the opinion of the Lessor, in order to protect the Lessor's title to and interest in such Unit and the rights of the Lessor under this Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, obliterated, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefore shall have been filed with the Lessor and duly filed and deposited by the Lessee in all public offices where this Agreement shall have been filed and deposited and (ii) the Lessee shall have furnished the Lessor an opinion of counsel to the effect that such statement has been so filed and deposited, that such filing and deposit will protect the Lessor's rights in such Units and that no other filing, deposit or giving of notice with or to any federal, state or local government or agency thereof is necessary to protect the rights of the Lessor in such Units.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a

designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

7. Representations and Warranties. The Lessee represents and warrants to the Lessor as follows:

(a) As of the date of execution of this Agreement, all of the representations and warranties made by the Lessee contained in ARTICLE VII of the Purchase Agreement are true and correct.

(b) Prior to the delivery of any Unit pursuant hereto, this Agreement will be duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and such filing will protect the Lessor's rights in and to this Agreement and the Equipment, and no other filing, recording, registration or deposit (or giving of notice) with any other Federal, state or local government or agency of the United States is necessary in order to protect the rights of the Lessor hereunder in and to the Equipment in any state of the United States or the District of Columbia.

8. Conditions of the Lessor's Acceptance of Delivery. The obligations of the Lessor to accept any Unit, to make payments with respect to such Unit and to lease such Unit to the Lessee pursuant to Section 2 hereof shall be subject to the receipt by the Lessor, on or prior to the Closing Date, of the following documents, dated (except for the document referred to in Section 8(d)) the Closing Date:

(a) An opinion of counsel for the Lessee in form, scope and substance satisfactory to the Lessor.

(b) An Officers' Certificate of the Lessee to the effect that (on the Closing Date and after giving effect to the delivery on such date) to the best of their knowledge after due inquiry (i) the Lessee's representations and warranties contained in this Agreement are true and correct on and as of the Closing Date, with the same effect as though made on such date, (ii) no event has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement which would constitute an Event of Default or Default under this Agreement, (iii) the Lessee has performed in all material respects all agreements and satisfied all conditions under this Agreement required to be performed or satisfied by it on

or before the Closing Date, and (iv) there has not been any material adverse change in the business, prospects or financial condition of the Lessee since the date of the latest financial statements referred to in Section 7.5 of the Purchase Agreement.

(c) An opinion of Helm Financial Corporation, an appraiser, (which opinion need not be dated on the Closing Date) satisfactory to the Lessor to the effect that the estimated fair market value and useful life of the Units at the end of the Term meet the tests set forth in Section 4(1)(C) of Revenue Procedure 75-21 and that the Units are expected to be useful and usable by the Lessor at the end of the Term for purposes other than the continued leasing or transfer to the Lessee or any member of the Lessee Group (as defined in Revenue Procedure 75-21).

(d) A certificate of an officer of an independent insurance broker acceptable to the Lessor evidencing the maintenance of the insurance required by Section 10 hereof.

(e) A Certificate of Lessor's Cost, subject to amendment in accordance with Section 2(b) of this Agreement.

(f) An Officers' Certificate of the Lessee to the effect that each of the Units being sold to the Lessor is in the condition assumed in the opinion of Helm Financial Corporation referred to in Section 8(d) above.

9. Taxes. Whether or not any of the transactions contemplated hereby are consummated, the Lessee assumes responsibility for, and agrees to pay, hold harmless and indemnify on an after-tax basis the Lessor against, all taxes, fees, withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties and interest (all such taxes, fees, withholdings, governmental changes, penalties and interest being hereinafter called "Taxes"), imposed on, incurred by or asserted against the Lessor or the Units or any thereof on account of, or with respect to, this Agreement or any document referred to herein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any thereof or the ownership, nondelivery, leasing, re-leasing, subleasing, possession, use, operation, maintenance, repair, condition, sale, return or other disposition of the Units or any thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall

be no indemnification hereunder for (i) any Taxes imposed on or measured by any fees or compensation received by the Lessor, except to the extent provided in the Tax Indemnification Agreement and (ii) Taxes based on the net income of the Lessor by any jurisdiction in which the Lessor has an office or is otherwise deemed to be doing business, except to the extent that indemnification is provided for in the Tax Indemnification Agreement. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify the Lessor to the extent required by this Section 9 on the later of the date such Taxes are paid or ten days after receipt of a written request by the Lessor for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the fifth paragraph of this Section 9, any payment shall be made at the time therein provided.

In the event any returns, statements or reports with respect to Taxes (other than Taxes for which indemnification is not required under the above paragraph) are required to be made, the Lessee will make such returns, statements and reports (and supporting information and worksheets generated or accumulated in the preparation of such returns, statements and reports) in such manner as to show the interest of the Lessor (as the Owner) in the Units; provided, however, that the Lessor shall, with respect to any state or political subdivision thereof of the United States of America, prepare and file such returns, statements, and reports relating to sales or use taxes, and taxes, fees, and charges on or measured by the Lessor's earnings or gross receipts arising from the Units, or the value added by the Lessor thereto, as the Lessor shall determine are required to be filed based upon usage information provided by the Lessee, and the Lessor shall remit the amount thereof upon payment by the Lessee to the Lessor (such payment to be made promptly upon demand by the Lessor therefor) of such taxes, fees and charges except as provided above. To the extent that the Lessor has information necessary to the preparation of such returns, statements and reports, it will furnish such information to the Lessee.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this Section 9, the Lessor hereby authorizes the Lessee to act in its own name and on its behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless

from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor, of the Lessee's performance of its duties under this Section 9. The Lessee shall maintain and furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any taxes or propose an increase in the liability of the Lessor for any Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this Section 9, the Lessor will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to the Lessor written notice of its desire to contest such Claim within 30 days after receipt of notice from the Lessor, such Claim will be contested in accordance with this paragraph. The Lessor shall have the exclusive right to conduct the contest unless such right is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. The Lessor will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that the Lessor may determine (after consultation with the Lessee) in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund and the Lessor shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify the Lessor in a manner satisfactory to the Lessor for any liability or loss which the Lessor may incur as a result of contesting the validity of any Claim and shall have agreed to pay the Lessor on demand all costs and expenses which the Lessor may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to the Lessor on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by the Lessor of a refund of any Taxes paid by the Lessee any interest paid to the Lessor with respect

thereto shall be paid to the Lessee forthwith upon receipt by the Lessor and the obligations of the Lessor under this sentence shall survive the expiration or termination of this Agreement.

The Lessee agrees to pay all amounts due under this Section 9 free of any Taxes and to indemnify the Lessor against any Taxes imposed by reason of any payment made by the Lessee so that the Lessor shall receive an amount which, net of any Taxes or other charges required to be paid by the Lessor in respect thereof, shall be equal to the amount of payment otherwise required hereunder. Without limiting the foregoing, the amount which the Lessee shall be required to pay with respect to any Taxes subject to indemnification under this Section 9 shall be an amount sufficient so that, after considering the tax and other effects of the Taxes in question and the receipt of indemnification payments hereunder, the Lessor will have the same anticipated after-tax rate of return on equity and periodic recovery of net cash flow as the Lessor would have realized had such Taxes not been incurred or imposed.

In the event that, during the continuance of this Agreement, the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this Section 9, such liability shall continue, notwithstanding the expiration or termination of this Agreement, until all such Taxes are paid or reimbursed by the Lessee.

10. Maintenance; Stipulated Losses; Insurance.

(a) Maintenance. The Lessee at its own expense will maintain and service each Unit in accordance with prudent industry practice and which will include testing, repair and overhaul of each Unit so that each Unit will remain (a) in as good operating condition as when delivered (ordinary wear and tear excepted), (b) in compliance with any and all applicable laws and regulations, and (c) suitable for immediate purchase or lease and use by a Class I line-haul railroad (not then or prospectively a debtor in any insolvency or reorganization proceedings) in the event of resale or release upon default by the Lessee. In no event shall any Unit be maintained or scheduled for maintenance on a basis less frequent than the maintenance basis or maintenance scheduling basis employed as of the date hereof by the Lessee for similar equipment. The Lessee will permit a qualified engineer satisfactory to the Lessor sufficient access to the Units so that such engineer, at the Lessee's expense, can

furnish the Lessor with a certificate no later than the last Business Day of March of each year, commencing in March, 1990, setting forth the identification numbers of all Units which are then in the condition required by clauses (a), (b) and (c) of the first sentence of this Section 10 and certifying that all such Units are in such condition.

(b) Stipulated Losses. In the event that any Unit shall be or become lost, stolen, destroyed or substantially destroyed from any cause whatsoever and, in the opinion of the Lessee, repair is uneconomic, or shall be taken or requisitioned by condemnation or otherwise by the United States Government for a period which shall exceed the then remaining Term of this Agreement, or by any other government or governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days (each such occurrence being hereinafter called a "Stipulated Loss" or collectively, "Stipulated Losses"), prior to the return of such Unit in the manner set forth in Section 20 hereof, the Lessee shall promptly (but in any event within 30 days after such Stipulated Loss) and fully notify the Lessor with respect thereto. On the earlier of (i) the 30th day following such notice (but not earlier than the first Payment Date) and (ii) the Payment Date next succeeding such notice, the Lessee shall pay to the Lessor an amount equal to the Rent in respect of such Unit then due and payable or accrued to such date (computing, in the case of Basic Rent, the Basic Rent for any number of days less than a full rental period by multiplying the Basic Rent for such full rental period by a fraction of which the numerator is such number of days and the denominator is 180 days) plus a sum equal to the Stipulated Loss Value of such Unit as of the Payment Date on or next preceding the date of such Stipulated Loss in accordance with Schedule III hereto. Upon the making of such payment by the Lessee in respect of any Unit, the Rent for such Unit shall cease to accrue, the Term of this Agreement as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Stipulated Loss, at the best price obtainable on an "as is, where is" basis; provided, however, that the Lessee or any Affiliate thereof may not be a purchaser of such Unit. Provided that the Lessee has previously paid the Stipulated Loss Value to the Lessor and provided no Event of Default or Default shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the

Stipulated Loss Value of such Unit, and shall pay any excess to the Lessor.

Whenever any Unit shall suffer a Stipulated Loss after the final payment of Basic Rent or Renewal Rent in respect thereof is due pursuant to this Agreement and before such Unit shall have been returned in the manner provided in Section 20 hereof, the Lessee shall promptly (as provided above) and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Stipulated Loss Value of such Unit.

In the event of the requisition (other than a requisition which constitutes a Stipulated Loss) for use by the United States Government or by any other government or governmental entity (hereinafter collectively called the "Government") of any Unit during the term of this Agreement, all of the Lessee's obligations (including, without limitation, the obligation to pay Rent) under this Agreement 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 Agreement, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Section 15 or 20 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the Term of this Agreement, but the Lessee shall in all other respects comply with the provisions of said Section 15 or 20, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the Term of this Agreement shall be paid over to, or retained by, the Lessee, provided no Event of Default or Default shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the Term of this Agreement, shall be paid over to, or retained by, the Lessor.

Except as hereinabove in this Section 10 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Stipulated Loss to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

(c) Insurance. Throughout the Term of this Agreement and at all times prior to the return of the Units to the Lessor, the Lessee shall maintain with financially sound and reputable insurers acceptable to the Lessor the following insurance coverages:

(1) All risk property insurance, on a policy form acceptable to the Lessor, covering physical loss or damage to the Units. Such coverage shall be written on a stated value basis and shall insure each Unit for an amount not less than 110% of the then current Stipulated Loss Value of each Unit. The valuation clause of the policy applicable to the Units shall not contain a provision for reduction due to depreciation in the event of either partial or total loss. Such policy shall not contain a deductible provision in excess of \$50,000 per Unit and a maximum per occurrence deductible of \$150,000.

(2) The Lessee shall at all times maintain comprehensive general railroad liability insurance covering claims arising out of the operation, maintenance, condition or use of the Units on a policy form acceptable to the Lessor, including contractual liability, personal injury, employers' liability (FELA), broad form property damage insurance and insurance covering liability arising from sudden and accidental pollution, spillage or leakage of hazardous materials (on a named perils basis), including fire, lightning, explosion, collision or derailment of a railroad or land vehicle. In no event shall such insurance be written for limits less than \$25,000,000 per occurrence combined personal injury and property damage. Such insurance may include a self-insured retention of up to \$1,000,000 or, with the Lessor's prior written approval, a greater amount.

Any insurance carried in accordance with this Section 10(c) shall be endorsed to provide that:

(1) the Lessor is included as a named insured with respect to the coverage specified in Section 10(c)(1) and as an additional named insured with respect to the coverage specified in Section 10(c)(2), with the understanding that any obligation imposed upon the insured (including the liability to pay premiums) shall be the sole obligation of the Lessee and not that of the Lessor or any other insured;

(ii) the insurer thereunder waives all rights of subrogation against the Lessor, any right of set-off and counterclaim and any other right to deduction whether by attachment or otherwise;

(iii) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the Lessor with respect to its interest in the Units or its property; and

(iv) if such insurance is cancelled for any reason whatsoever including nonpayment of premium or any substantial change is made in the coverage which affects the interest of the Lessor, such cancellation or change shall not be effective as to the Lessor for 30 days after receipt by the Lessor of written notice sent by registered mail from such insurer of such cancellation or change.

Any insurance carried in accordance with Section 10(c)(1) shall provide that:

(1) the interests of the Lessor shall not be invalidated by any action or inaction of the Lessee or any other Person and shall insure the Lessor regardless of any breach or violation by the Lessee of any other Person; and

(2) the Lessor shall be the sole loss payee.

Any insurance carried in accordance with Section 10(c)(2) shall be endorsed to provide that inasmuch as the policy is written to cover more than one insured, all terms, conditions, insuring agreements and endorsements, with the exception of limits of liability, shall operate in the same manner as if there were a separate policy covering each insured.

(d) Evidence of Insurance. On or before the execution of this Agreement and thereafter annually on each anniversary date of the Closing Date, the Lessee shall arrange for furnishing the Lessor with certification of all required insurance. Such certification shall be executed by each insurer or by an authorized representative of each insurer where it is not practical for such insurer to execute the certificate itself. Such certification shall identify the insurance companies, the type of insurance, the insurance limits and the policy term, and shall specifically list the

special provisions enumerated for such insurance required by Section 10(c). Upon request, the Lessee shall furnish the Lessor with copies of all insurance policies, binders, covernotes, or other insurance relating to the Units.

(e) Report. Concurrently with the furnishing of the certification referred to in Section 10(d), the Lessee will furnish the Lessor with an opinion on an independent insurance broker reasonably acceptable to the Lessor stating that all premiums then due have been paid and that in the opinion of such broker, the insurance then carried and maintained with respect to such Units is in accordance with the terms of this Agreement.

11. Early Termination. If at any time after the second anniversary of the commencement of the Basic Lease Term, in the opinion of the Lessee, as evidenced by a certificate of the Lessee's chief financial officer and its chairman, the Units individually or collectively become economically obsolete or surplus to its needs (including, without limitation, by reason of the Units requiring uneconomic expenditures in the form of maintenance, repair, protection or modification), the Lessee may, upon not less than 90 days' irrevocable written notice, effect an early termination or partial termination of this Agreement on any Payment Date with respect to any Unit. On the Payment Date next succeeding such notice of termination, the Lessee shall pay to the Lessor an amount equal to the Rent in respect of such Unit then due and payable or accrued to such date plus a sum equal to the Termination Value of such Unit as of the Payment Date on the date of such termination in accordance with Schedule II hereto. Upon the making of such payment by the Lessee in respect of any Unit, the Rent for such Unit shall cease to accrue, the Term of this Agreement as to such Unit shall terminate and the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit, the lease of which has been terminated pursuant to this Section 11, at the best price obtainable on an "as is, where is" basis; provided, however, that the Lessee or any Affiliate thereof may not be a purchaser of such Unit. Provided that the Lessee has previously paid the Termination Value to the Lessor and provided no Event of Default or Default shall have occurred and be continuing, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Termination Value of such Unit, and shall pay any excess to the Lessor.

12. Equipment Reports. On or before April 30 in each year, commencing with the calendar year 1990, the Lessee will furnish to the Lessor a certificate signed by the chief mechanical officer of the Lessee (a) setting forth, as at the preceding December 31, the amount, description and numbers of all Units then leased hereunder, the amount, description and numbers of all Units that have suffered a Stipulated Loss during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and such other information regarding the condition and state of repair of the Units as the Lessor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by Section 5 hereof have been preserved or replaced. The Lessor, at its sole expense, shall have the right, by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Agreement.

The Lessee shall promptly notify the Lessor of any occurrence of an Event of Default or Default, specifying such Event of Default or Default and the nature and status thereof.

13. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. (a) Disclaimer of Warranties. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION OF ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessor and the Lessee acknowledge that the Lessee owned, used, operated and was familiar with the Units immediately prior to the sale of the Units by the Lessee to the Lessor pursuant to the Sale Agreement. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance

of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, subleasing, 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 Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters. Unless an Event of Default or Default shall have occurred and be continuing, the Lessor agrees that, for the Term of this Lease, the Lessee shall have the benefit of and shall be entitled to enforce, as the Lessor's agent, any and all claims for damages arising from warranties (whether express or implied) of manufacturers to the extent in effect with respect to the Units.

(b) Compliance with Laws and Rules. The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads, if applicable, 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, prior to the expiration of this Agreement or any renewal thereof, Applicable Laws require any alteration, replacement, addition or modification of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such Applicable Laws in any reasonable manner which does not, in the opinion of the Lessor (which opinion shall be promptly given to the Lessee), adversely affect the property or rights of the Lessor under this Agreement. The Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the Term of this Agreement as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units). The additions, modifications and improvements made by the Lessee

under the preceding sentence shall be owned, and may be removed, by the Lessee, except to the extent such additions, modifications or improvements are described in the following sentence. Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of the provisions contained hereinabove, (ii) the cost of which is included in the Lessor's Cost of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the United States Department of Transportation or any other regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance shall immediately be vested in the Lessor. The Lessee shall make any additional payments to the Lessor pursuant to the Tax Indemnification Agreement with respect to any such additions and replacements referred to in this Section 13(b).

(c) Indemnification. The Lessee agrees to indemnify, protect and hold harmless the Lessor from and against all losses, damages, injuries, liabilities, claims (including, without limitation, claims for strict liability in tort) and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent, trademark and copy-right liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of an Event of Default or Default under this Agreement or any sublease entered into pursuant to Section 16 hereunder, the ownership of any Unit during the Term of this Agreement, the manufacture, ordering, acquisition, use, operation, condition, purchase, sublease, delivery, non-delivery, acceptance, rejection, storage or return of any Unit during the Term of this Agreement or any accident in connection with the operation, use, condition, possession, storage or return of any Unit during the Term of this Agreement resulting in damage to property or injury or death to any person, except as otherwise provided in the Tax Indemnification Agreement; provided, however, that the foregoing indemnification shall not constitute a guaranty of the residual value of the Units. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under

this Agreement or the expiration or termination of the Term of this Agreement.

Except as otherwise expressly provided in this Agreement, the Lessee shall bear the responsibility and risk for, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any or all of the Units.

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

14. Events of Default. If, during the continuance of this Agreement, one or more of the following Events of Default shall occur and be continuing:

(A) default shall be made in payment of any amount provided for in Section 4, 10 or 11 hereof, and such default shall continue for five Business Days;

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

(C) an Event of Default shall occur under the Purchase Agreement or the Tax Indemnification Agreement;

(D) failure of the Lessee to perform, comply with, or observe, in any material respect, any other term, condition or covenant of this Agreement or any other Operative Document within 30 days after receipt of notice from the Lessor of such failure;

(E) any representation or warranty of a material fact made by the Lessee herein or in any certificate or statement furnished to the Lessor pursuant to or in connection with this Agreement or the Operative Documents proves untrue in any material respect as of the date of issuance or

making thereof (other than any representation for which the Lessee has agreed to indemnify the Lessor under the Tax Indemnification Agreement);

(F) a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Lessee or any of its Subsidiaries in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Lessee or any of its Subsidiaries or for any substantial part of their respective properties, or ordering the winding up or liquidation of the affairs of the Lessee or any of its Subsidiaries, and such decree or order shall remain unstayed and in effect for a period of 60 days;

(G) the Lessee or any of its Subsidiaries shall have an order for relief entered with respect to it or shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case under any such law, or shall apply for or consent to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee or sequestrator (or similar official) of the Lessee or any of its Subsidiaries or for any substantial part of their respective properties, or the Lessee or any of its Subsidiaries shall take any corporate action in contemplation of any of the foregoing;

(H) any money judgment, writ or warrant of attachment or similar process, or any combination thereof, involving an amount in excess of \$250,000 shall be entered or filed against the Lessee or any Subsidiary or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of 60 days or in any event later than five days prior to the date of any proposed sale thereunder;

(I) any order, judgment or decree shall be entered against the Lessee decreeing dissolution or split up of the Lessee and such order shall remain undischarged or unstayed for a period in excess of 30 days; or

(J) the Lessee or any of its Subsidiaries shall be prohibited or otherwise materially restrained from

conducting the business theretofore conducted by it by virtue of any determination, ruling, decision, decree or order of any court or regulatory authority of competent jurisdiction and such determination, ruling, decision, decree or order remains unstayed and in effect for any period of 60 days;

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

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

(b) by notice in writing to the Lessee, terminate this Agreement, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Agreement had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents, subject to compliance with all mandatory requirements of law, enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the 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 Lessor shall, nevertheless, have a right to recover from the Lessee any and all Rent, indemnity payments or other amounts which under the terms of this Agreement may be then due or which may have accrued to the date of such termination (computing, in the case of Basic Rent, the Basic Rent for any number of days less than a full rental period by multiplying the Basic Rent for such full rental period by a fraction of which the numerator is such number of days and the denominator is 180 days) 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 Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to the excess of the present value, at the time of such termination, of the entire unpaid balance of all Rent for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the Term of this Agreement as to such Unit over the then Fair

Market Rental Value which the Lessor reasonably estimates to be obtainable for the Unit during such period, such Fair Market Rental Value to be computed in each case on the basis of an 8-1/2% per annum discount, compounded semi-annually from the respective dates upon which Rent would have been payable hereunder had this Agreement not been terminated; or (y) an amount equal to the excess, if any, of the Termination Value as of the Payment Date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the Fair Market Sales Value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Termination Value for such Unit, as of the 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 Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Agreement provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the Rent due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf. The Lessee hereby waives any and all claims against the Lessor and its agent or agents for damages of whatever nature in connection with any retaking of any Unit in any reasonable manner. The Lessor and the Lessee agree that the Lessor shall be entitled to all rights (such

rights being fundamental to the willingness of the Lessor to enter into this Agreement) provided for in Section 1168 of the Bankruptcy Code or any comparable provision of any amendment thereto, or of any other bankruptcy act, so that the Lessor shall have the right to take possession of the Units upon an Event of Default under this Agreement regardless of whether the Lessee is in reorganization.

No failure by the Lessor to exercise, and no delay by the Lessor in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege by the Lessor preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

15. Return of Units upon Default. If this Agreement shall terminate pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the condition required by clauses (a), (b) and (c) of the first sentence of Section 10 hereof. For the purpose of delivering possession, the Lessee shall:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return this Unit or Units) place such Units upon such storage tracks of the Lessee or any of its Affiliates as the Lessor reasonably may designate;

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

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

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Agreement, and, upon application to any court of equity having jurisdiction, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of

the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own expense, maintain and keep the Units in the condition required by clauses (a), (b) and (c) of the first sentence of Section 10 hereof and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Unit, to inspect the same. All rent and per diem charges earned in respect of the Units after the date of termination of this Agreement shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day from the date of such termination the amount of \$300.00 with respect to such Unit for each such day.

Without in any way limiting the foregoing obligations of the Lessee under this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, 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.

16. Assignment; Possession and Use. The Lessor shall have the right to assign, convey or transfer its right, title and interest in and to this Agreement and the Units, in whole or in part.

So long as no Event of Default or Default exists hereunder, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Agreement and, without the prior written consent of the Lessor, the Lessee may sublease the Units to, or permit their use by, a user incorporated in the United States of America (or any state thereof or the District of Columbia), upon lines of railroad owned or operated by the Lessee or such user or by a railroad company or companies incorporated in the United States of America (or any state thereof or the District of Columbia), or over which the Lessee, such user, or such railroad company or companies have trackage rights or rights for operation of their trains, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only upon and subject to all the terms and conditions of this

Agreement; provided, however, that (i) the Lessor's consent must be obtained for any sublease that is for a term longer than six months, (ii) the Lessee shall not sublease or permit the sublease or use of any Unit to service involving operation or maintenance outside the United States of America, and (iii) any such sublease or use shall be consistent with the provisions of the Tax Indemnification Agreement. No such sublease shall relieve the Lessee of its obligations hereunder which shall be and remain those of a principal and not a surety.

The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a Lien (other than a Lien created by the Lessor or resulting from claims against the Lessor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Lessor or the Lessee therein, and will promptly discharge any such Lien which arises.

17. Lessor's Right to Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable costs and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the Overdue Rate, shall be payable by the Lessee upon demand. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor against the Lessee hereunder or be deemed to cure the Event of Default or Default of the Lessee hereunder.

18. Lessee's Options to Renew Agreement.

(a) Renewal Options. (1) So long as no Event of Default or Default shall have occurred and be continuing, the Lessee shall have the option to renew this Agreement, as to any or all of the Units subject hereto, at the expiration of the Basic Lease Term or any Renewal Lease Term for a period, of at least one year. In order to exercise its option to renew this Agreement for any Renewal Lease Term, the Lessee shall give the Lessor irrevocable written notice of its election to renew at least 12 months prior to the commencement of the first such Renewal Lease Term and at least 6 months prior to the commencement of any subsequent Renewal Lease Term.

(ii) The semi-annual Renewal Rent installments payable by the Lessee to the Lessor during any Renewal Lease Term shall be the estimated current Fair Market Rental Value of the Units as of the first day of such Renewal Lease Term, as agreed upon by the Lessor and the Lessee within 30 days after the receipt by the Lessor of the notice from the Lessee of its election to renew this Agreement pursuant to Section 18(a)(i) above or, if the Lessor and the Lessee shall fail to agree within such 30-day period, the Fair Market Rental Value shall be determined by the Appraisal Procedure. All provisions of this Agreement shall be applicable during the Renewal Lease Term except for (A) the amount of each installment of Renewal Rent payable during such Renewal Lease Term, which shall be as hereinabove provided, or (B) as provided in Section 18(b) below.

(b) Payment of Supplemental Rent. Upon the renewal of this Agreement as to any of the Units by the Lessee pursuant to this Section 18, the Lessee shall, on the commencement date of such Renewal Lease Term and as a condition precedent to the Lessor's obligation to renew this Agreement, pay all Supplemental Rent then due and payable hereunder.

(c) Stipulated Loss Value. If a Stipulated Loss shall occur during any Renewal Lease Term, the provisions of Section 10(b) shall apply; provided, however, that in lieu of the amounts otherwise payable pursuant to Section 10(b), the Lessee shall pay as Stipulated Loss Value an amount equal to the lesser of (i) the Fair Market Sales Value of the Units (determined as of the commencement date of such Renewal Lease Term) or (ii) 20% of the Lessor's Cost of such Units; and provided, further, that the term Renewal Rent shall be substituted for Basic Rent in Section 10(b).

19. Lessee's Options to Purchase the Units.

(a) Option to Purchase at End of Basic Lease Term and Renewal Lease Terms. So long as no Event of Default or Default shall have occurred and be continuing, the Lessee shall have the option to purchase any or all of the Units upon the expiration of this Agreement at the end of the Basic Lease Term or any Renewal Lease Term at the estimated current Fair Market Sales Value thereof as of the last day of the Basic Lease Term or such Renewal Lease Term; provided, however, that the Lessee shall have given the Lessor irrevocable written notice of its election to purchase at least 12 months but not more than 18 months prior to the end

of the Basic Lease Term or at least 6 months prior to the end of such Renewal Lease Term, as the case may be. The date for such purchase shall be the expiration date of the applicable Term. For purposes of this subsection, Fair Market Sales Value shall be determined by the mutual agreement of the Lessor and the Lessee within 30 days after receipt by the Lessor of the notice from the Lessee of its consideration of the purchase of the Units pursuant to this subsection or, if they shall fail to agree within such 30-day period, the Fair Market Sales Value shall be determined by the Appraisal Procedure.

(b) Payment of Supplemental Rent. Upon any purchase of the Units by the Lessee pursuant to this Section 19, the Lessee shall, on the date of such purchase and as a condition precedent to the Lessor's obligation to transfer title to the Units to the Lessee, pay all Supplemental Rent then due and payable thereon.

(c) Purchase of the Units. If the Lessee shall have given notice of purchasing the Units, as provided in Section 19(a), the Lessee shall pay for and purchase the Units on the Expiration Date, and if the Lessee shall fail to pay for the Units on such date, the Lessee shall no longer have any right so to purchase the Units pursuant to any provision of this Section 19 and the Lessor may proceed by appropriate court action to recover damages or other appropriate relief with respect to such failure.

(d) Transfer of the Units after Purchase. Immediately following payment by the Lessee to the Lessor of the purchase price for the Units pursuant to Section 19(c) and payment by the Lessee to the Person or Persons entitled thereto of all other Supplemental Rent required to be paid by it pursuant to Section 19(b), the Lessor shall transfer to the Lessee, without recourse or warranty, all of the Lessor's right, title and interest in and to the Units, but free and clear of any Lessor Liens (other than any thereof relating to items covered by the indemnities of the Lessee pursuant to the Tax Indemnification Agreement).

20. Return of Units upon Expiration of Term. Except as otherwise permitted in Section 19 hereof, as soon as practicable on or after the expiration of the Term of this Agreement with respect to any Unit, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessor may designate from a list

of available storage sites as Lessee shall provide Lessor, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding 90 days following notification to the Lessor by the Lessee that all the Units have been assembled and delivered for storage and transport the same, at any time within such 90-day period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee; and in the event that any Unit shall suffer a Stipulated Loss during such storage period, the Lessee shall pay the Lessor the Stipulated Loss Value thereof as provided in Section 10 hereof. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that (i) the Lessee shall not be liable, except in the case of negligence or strict liability of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, on behalf of either the Lessor or any prospective purchaser, lessee or user, such rights of inspection, and (ii) the Lessee shall not be liable for any damage caused by the negligence of such person. Each Unit returned to the Lessor pursuant to this Section 20 shall be in the condition required by clauses (a), (b) and (c) of the first sentence of Section 10 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Agreement, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof. During any storage period, the Lessee will, at its own expense, maintain and keep the Units in the condition required by clauses (a), (b) and (c) of the first sentence of Section 10 hereof. All rent and per diem charges earned in respect of the Units after the date of termination of this Agreement shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day from the date of such termination the amount of \$300.00 with respect to such Unit for each such day.

21. Recording. The Lessor will cause this Agreement to be filed, at the Lessee's expense, in accordance with

49 U.S.C. § 11303. The Lessee will undertake any filing, registering, deposit, and recording required by the Lessor and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to its satisfaction, of the Lessor's rights in the Units, or for the purpose of carrying out the intention of this Agreement; and the Lessee will promptly furnish to the Lessor evidence of all such filing, registering, depositing, recording and other acts which may be required under this Section 21 and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor. This Agreement shall be filed with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

22. Indemnity for Federal and Other Income Tax Benefits. The Lessee will indemnify the Lessor in accordance with the terms and provisions of the Tax Indemnification Agreement.

23. Reporting Covenants. The Lessee will deliver or cause to be delivered to the Lessor:

(a) as soon as available and in any event within 120 days after the end of each fiscal year, an Officer's Certificate stating that a review of the activities of the Lessee during such year has been made under his supervision with a view to determining whether the Lessee has kept, observed, performed and fulfilled all of its obligations under this Agreement and that to the best of his knowledge the Lessee during such year has kept, observed, performed and fulfilled each and every agreement, obligation and condition therein, or, if an Event of Default or Default shall exist or have existed, specifying such Event of Default or Default and the nature and status thereof;

(b) as soon as practicable and in any event within 30 days after the end of each calendar month and each fiscal quarter, consolidated balance sheets of the Lessee and its Subsidiaries as at the end of such period and the related consolidated statements of income, stockholders' equity and changes in financial position of the Lessee and its Subsidiaries for such month or quarter, as the case may be, and for the period from the beginning of the current fiscal year to the end of such month or quarter, as the case may be,

setting forth in each case in comparative form the consolidated figures for the corresponding periods of the previous fiscal year, all in reasonable detail and certified by the chief financial officer of the Lessee as fairly presenting the consolidated financial condition and results of operations of the Lessee and as having been prepared in accordance with GAAP (defined in the Purchase Agreement) applied on a basis consistent with the audited financial statements of the Lessee, subject to changes resulting from audit and normal year-end adjustments;

(c) as soon as practicable and in any event within 90 days after the end of each fiscal year of the Lessee commencing with the year ending December 31, 1988, consolidated balance sheets of the Lessee and its Subsidiaries as at the end of such year and the related consolidated statements of income, stockholders' equity and changes in financial position of the Lessee and its Subsidiaries for such fiscal year, setting forth in each case in comparative form the consolidated figures for the previous fiscal year, all in reasonable detail and accompanied by a report thereon of independent certified public accountants of recognized national standing selected by the Lessee and satisfactory to the Lessor, which report shall state that such consolidated financial statements present fairly the financial position of the Lessee and its Subsidiaries as at the dates indicated and the results of their operations and changes in their financial position for the periods indicated in conformity with the Lessor applied on a basis consistent with prior years and that the audit by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards;

(d) together with each delivery of consolidated financial statements pursuant to (c) above, a written statement by the independent public accountants giving the report thereon (i) stating that their audit examination has included a review of the terms of this Agreement as it relates to accounting matters, (ii) stating whether, in connection with their audit examination, any condition or event which constitutes an Event of Default or Default has come to their attention, and, if such a condition or event has come to their attention, specifying the nature and period of existence thereof, but such accountants shall not be liable by reason of any failure to obtain knowledge of any such Event of Default or Default that would not be disclosed in the course of their audit examination, and (iii) stating that based on their audit examination nothing has come to

their attention which causes them to believe that the information contained in the certificate delivered therewith pursuant to (a) above is not correct;

(e) promptly upon receipt thereof, copies of all reports submitted to the Lessee by independent public accountants in connection with each annual, interim or special audit of the financial statements of the Lessee made by such accountants, including, without limitation, the comment letter submitted by such accountants to management in connection with their annual audit;

(f) promptly upon their becoming available, copies of all financial statements, reports, notices and proxy statements sent or made available generally by the Lessee to its security holders or by any Subsidiary to its security holders other than the Lessee or another Subsidiary, of all regular and periodic reports and all registration statements and prospectuses filed by the Lessee or any Subsidiary with any securities exchange or with the Securities and Exchange Commission or any governmental authority succeeding to any of its functions, and of all press releases and other statements made available generally by the Lessee or any Subsidiary to the public concerning material developments in the business of the Lessee or any Subsidiary;

(g) as soon as available, a copy of any Annual Report to the Interstate Commerce Commission which may be required to be filed by the Lessee; and

(h) with reasonable promptness, such other data and information as from time to time may be reasonably requested by the Lessor.

The Lessee will permit representatives of the Lessor, at Lessor's risk and expense, with respect to matters reasonably related to the transactions contemplated by this Agreement, to visit and inspect any of the properties of the Lessee, to examine all its books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss its affairs, finances and accounts with its officers, employees and independent public accountants (and by this provision the Lessee authorizes said accountants to discuss the finances and matters reasonably related to the financial condition of the Lessee) all at such reasonable times and as often as may be reasonably requested. Should any of the information obtained pursuant to this paragraph be considered by the Lessee to be confidential in nature and if

the Lessee so states in writing specifically identifying such information, the Lessor will, to the extent that such action is, in its opinion, feasible and consistent with its interests in the transactions contemplated hereby, respect such confidentiality.

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

(a) if to the Lessor, at:
1600 Summer Street
Stamford, Connecticut 06905
Attention: Manager-Operations,
Transportation and Industrial Funding;

and

(b) if to the Lessee, at:
1006 East 4th Street
Waterloo, Iowa 50703
Attention: President

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

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

26. Execution. This Agreement may be executed in several counterparts, such counterparts together constituting

but one and the same instrument. Although for convenience this Agreement 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.

27. 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 or deposit hereof, if any, and of any assignment

hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed or deposited.

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

CHICAGO, CENTRAL & PACIFIC
RAILROAD COMPANY

By: Donald R. Wood, Jr.
Name: Donald R. Wood, Jr.
Title: President

[Corporate Seal]

Attest:

Shirley Austin
Assistant Secretary

GENERAL ELECTRIC CAPITAL
CORPORATION

By: Andrew J. Lloyd
Name: Andrew J. Lloyd
Title: Manager-Operations

[Corporate Seal]

Attest:

Oliver W. R. Champney
A47660.229/1-2

STATE OF IOWA)
COUNTY OF BLACK HAWK) SS.:

On this 30 day of December, 1988, before me personally appeared Donald R. Wood, Jr., to me personally known, who, being by me duly sworn, says that he is President of CHICAGO, CENTRAL & PACIFIC RAILROAD 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.

Corrine A. Snee
Notary Public

[Notarial Seal]

My Commission expires February 18, 1991

STATE OF CONNECTICUT)
COUNTY OF FAIRFIELD) SS.:

On this 22ND day of December, 1988, before me personally appeared ANDREW J. LLOYD, to me personally known, who, being by me duly sworn, says that he/she is MANAGER OPERATIONS of GENERAL ELECTRIC CAPITAL CORPORATION, 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, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Trustees, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Caroline V. Lampitt
Notary Public

[Notarial Seal]

My Commission expires

My Commission Expires Mar. 31, 1991

SCHEDULE I

<u>TYPE</u>	<u>ORIGINAL SERIAL NUMBER</u>	<u>REVISED SERIAL NUMBER</u>	<u>YEAR BUILT</u>
GP-8	7904	1504	1970
GP-8	7905	1505	1972
GP-8	7983	1583	1972
GP-8	7984	1584	1972
GP-8	7985	1585	1972
GP-8	7989	1589	1972
GP-8	7990	1590	1972
GP-8	7991	1591	1972
GP-8	7992	1592	1972
GP-8	7993	1593	1972
GP-10	8002	1702	1972
GP-10	8005	1705	1972
GP-10	8012	1712	1970
GP-10	8019	1719	1971
GP-10	8023	1723	1970
GP-10	8032	1732	1971
GP-10	8033	1733	1971
GP-10	8035	1735	1971
GP-10	8039	1739	1969
GP-10	8041	1741	1971
GP-10	8044	1744	1971
GP-10	8045	1745	1969
GP-10	8055	1755	1971
GP-10	8056	1756	1970
GP-10	8058	1758	1970
GP-10	8059	1759	1970
GP-10	8063	1763	1970
GP-10	8065	1765	1970
GP-10	8077	1777	1971
GP-10	8079	1779	1970
GP-10	8093	1793	1970
GP-10	8111	1711	1971
GP-10	8114	1714	1971
GP-10	8121	1721	1970
GP-10	8134	1734	1969
GP-10	8150	1750	1970
GP-10	8159	1749	1969
GP-10	8163	1743	1971
GP-10	8165	1775	1970

<u>TYPE</u>	<u>ORIGINAL SERIAL NUMBER</u>	<u>REVISED SERIAL NUMBER</u>	<u>YEAR BUILT</u>
GP-10	8169	1769	1971
GP-10	8170	1770	1971
GP-10	8171	1771	1971
GP-10	8179	1789	1971
GP-10	8181	1781	1971
GP-10	8188	1788	1970
GP-10	8190	1790	1970
GP-10	8194	1794	1971
GP-10	8199	1799	1970
GP-10	8211	1710	1971
GP-10	8233	1633	1968
GP-10	8234	1734	1971
GP-10	8254	1654	1971
GP-10	8258	1758	1970
GP-10	8260	1760	1971
GP-10	8269	1669	1971
GP-9	9376	1676	1959
GP-18	9400	1800	1960
GP-18	9402	1802	1960
GP-18	9405	1805	1960
GP-18	9406	1806	1960
GP-18	9408	1808	1960
GP-18	9413	1813	1960
GP-18	9414	1814	1960
GP-18	9420	1820	1963
GP-18	9426	1826	1963
GP-18	9427	1827	1963
GP-18	9428	1828	1963
GP-28	9438	1838	1964
GP-28	9439	1839	1964
GP-28	9440	1840	1964
SW-7R	1200	1200	1967
SW-13	1300	1300	1971
SW-13	1301	1301	1971
SW-14	1428	1228	1980

SCHEDULE II

Termination Values

<u>Rental Date</u>	<u>Percentage of Equipment Cost</u>
Jun, 1991	82.350%
Dec, 1991	77.215
Jun, 1992	71.797
Dec, 1992	66.105
Jun, 1993	60.115
Dec, 1993	53.831
Jun, 1994	47.227
Dec, 1994	40.400
Jun, 1995	33.175
Dec, 1995	25.507
Jun, 1996	17.371
Dec, 1996	8.736

The lease cannot be terminated prior to June, 1991 (in whole or in part).

SCHEDULE III

Stipulated Loss Values

<u>Rental Date</u>	<u>Percentage of Equipment Cost</u>
Jun, 1989	105.681%
Dec, 1989	101.997
Jun, 1990	98.045
Dec, 1990	93.836
Jun, 1991	89.352
Dec, 1991	84.605
Jun, 1992	79.574
Dec, 1992	74.269
Jun, 1993	68.667
Dec, 1993	62.770
Jun, 1994	56.554
Dec, 1994	50.114
Jun, 1995	43.276
Dec, 1995	35.996
Jun, 1996	28.247
Dec, 1996	20.000

EXHIBIT A
TO LEASE AGREEMENT

SALE AGREEMENT

Dated as of December 22, 1988

Between

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY

And

GENERAL ELECTRIC CAPITAL CORPORATION

Sale Agreement

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SALE AGREEMENT, dated as of December 22, 1988, between GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation, as Purchaser hereunder and as Lessor ("Lessor") under a Lease Agreement of Railroad Equipment dated as of the date hereof ("Lease Agreement") and CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY, a Delaware corporation, as Seller hereunder and as Lessee ("Lessee") under the Lease Agreement.

WHEREAS, the Lessee has agreed to sell and deliver to the Lessor, and the Lessor has agreed to purchase, the railroad equipment described in Schedule 1 to the Lease Agreement, less any items excluded herefrom under the provisions hereof (as so excluded, the "Equipment"); and

WHEREAS, the Lessor is entering into a Lease Agreement with the Lessee pursuant to which the Lessee will lease from the Lessor such number of units of Equipment as are delivered and accepted hereunder (the "Units").

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

ARTICLE 1. Sale of Equipment. Pursuant to this Agreement, the Lessee will sell and deliver to the Lessor, and the Lessor will purchase from the Lessee, accept delivery of and pay for (as hereinafter provided and subject to the limitations hereinafter set forth), the Equipment. The Equipment shall be repaired to the operating condition assumed in the opinion of Helm Financial Corporation, referred to in Section 8(d) of the Lease Agreement, at the time of sale and the design, quality and component parts of each Unit of the Equipment shall conform, on the date of sale thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such Unit.

ARTICLE 2. Inspection and Delivery. The Lessee will deliver the Units of Equipment to the Lessor pursuant to the Bill of Sale, substantially in the form attached hereto as Annex A (the "Bill of Sale") on the Closing Date, as defined in the Lease Agreement; provided, however, that delivery of any Unit of the Equipment shall not be made until the Lease Agreement has been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303;

Prior to delivery of the Units of Equipment, such Units shall be presented to an inspector of the Lessor for inspection at the place specified for delivery, and if such Units conform to the requirements and standards applicable thereto, such inspector or an authorized representative of the Lessor shall execute and deliver to the Lessee a certificate of acceptance ("Certificate of Lessor's Acceptance") substantially in the form of Annex B hereto; provided, however, that the Lessee shall not thereby be relieved of its warranty referred to in Article 5 hereof.

Upon delivery and acceptance of the Units hereunder, the Lessee shall acquire the rights and assume the obligations, with respect to the Units, as the Lessee thereof, in accordance with the terms and provisions of the Lease Agreement and be subject to the terms and provisions of the related Tax Indemnification Agreement; provided, however, that the Lessee shall not thereby be relieved of its warranty referred to in Article 5 hereof.

ARTICLE 3. Purchase Price and Payment. The base price or prices per Unit of the Equipment are set forth in the Certificate of Lessor's Acceptance. The term "Purchase Price" as used herein shall mean the base price or prices per Unit of the Equipment as set forth in such Certificate. The Purchase Price shall be paid by the Lessor pursuant to the terms of Section 2 of the Lease Agreement.

ARTICLE 4. Taxes. The Lessee agrees to pay all lawfully applicable taxes including sales and use taxes and/or gross receipts or gross income taxes in the nature of sales taxes (other than state or Federal income and excess profits taxes) levied or imposed and arising out of the sale, use or delivery of the Units of Equipment, except those taxes the imposition or levy of which are in good faith contested by the Lessee.

ARTICLE 5. Warranties. The Lessee represents and warrants to the Lessor that, at the time of delivery and acceptance of each Unit of Equipment under this Agreement, (a) there are no liens, security interests or other encumbrances of any nature affecting the right, title or interest of the Lessor, other than in favor of the Lessor, in and to such Unit of Equipment and the Lease Agreement resulting from or constituting claims against the Lessee or resulting from any action of the Lessee, (b) each Unit of Equipment is in the condition required by ARTICLE 1 hereof and assumed in the opinion of Helm Financial Corporation

referred to in Section 8(d) of the Lease Agreement and (c) the Lessor shall be entitled to the benefit of any, and is assigned all, manufacturers' warranties in effect with respect to the Units.

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

ARTICLE 6. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Annex hereto, and the Lease Agreement exclusively and completely state the rights of the Lessee and the Lessor with respect to the Equipment and supersede 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 Lessee and the Lessor.

ARTICLE 7. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly made if delivered or mailed to it by first class mail (unless otherwise specifically required herein), postage prepaid, at the following addresses:

(a) to the Lessee, at 1006 East 4th Street,
Waterloo, Iowa 50703, Attention: President,

(b) to the Lessor, at 1600 Summer Street,
Stamford, Connecticut 06905, Attention: Manager-
Operations, Transportation and Industrial Funding,

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

ARTICLE 8. Satisfaction of Undertakings. The Lessor shall not have any responsibility for the Lessee's failure to perform obligations or undertakings contained herein or in the Lease Agreement.

ARTICLE 9. 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.

ARTICLE 10. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract.

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

SELLER:

CHICAGO CENTRAL & PACIFIC
RAILROAD COMPANY

By: _____

Name: Donald R. Wood, Jr.
Title: President

[Corporate Seal]

Attest:

Assistant Secretary

PURCHASER:

GENERAL ELECTRIC CAPITAL
CORPORATION

By: _____

Name:
Title:

[Corporate Seal]

Attest:

Assistant Secretary

STATE OF)
) SS.:
COUNTY OF)

On this ____ day of December, 1988, before me personally appeared Donald R. Wood, Jr., to me personally known, who, being by me duly sworn, says that he is President of CHICAGO, CENTRAL & PACIFIC RAILROAD 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)
) ss.:
COUNTY OF)

On this _____ day of December, 1988, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is _____ of GENERAL ELECTRIC CAPITAL CORPORATION, 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

BILL OF SALE

NO.

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY ("Lessee"), in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to it paid by GENERAL ELECTRIC CAPITAL CORPORATION ("Lessor"), Lessor under a Sale Agreement dated as of December 20, 1988 ("Sale Agreement") between the Lessee and the Lessor, the receipt of which is hereby acknowledged, does hereby sell, assign, transfer, and set over unto the Lessor, its successors and assigns, its rights, title to and security interest in the following Units of standard-gauge railroad equipment which have been delivered by the Lessee to the Lessor pursuant to the Sale Agreement:

<u>TYPE</u>	<u>ORIGINAL SERIAL NUMBER</u>	<u>REVISED SERIAL NUMBER</u>	<u>YEAR BUILT</u>
GP-8	7904	1504	1970
GP-8	7905	1505	1972
GP-8	7983	1583	1972
GP-8	7984	1584	1972
GP-8	7985	1585	1972
GP-8	7989	1589	1972
GP-8	7990	1590	1972
GP-8	7991	1591	1972
GP-8	7992	1592	1972
GP-8	7993	1593	1972
GP-10	8002	1702	1972
GP-10	8005	1705	1972
GP-10	8012	1712	1970
GP-10	8019	1719	1971
GP-10	8023	1723	1970
GP-10	8032	1732	1971
GP-10	8033	1733	1971
GP-10	8035	1735	1971
GP-10	8039	1739	1969
GP-10	8041	1741	1971
GP-10	8044	1744	1971
GP-10	8045	1745	1969

GP-10	8055	1755	1971
GP-10	8056	1756	1970
GP-10	8058	1758	1970
GP-10	8059	1759	1970
GP-10	8063	1763	1970
GP-10	8065	1765	1970
GP-10	8077	1777	1971
GP-10	8079	1779	1970
GP-10	8093	1793	1970
GP-10	8111	1711	1971
GP-10	8114	1714	1971
GP-10	8121	1721	1970
GP-10	8134	1734	1969
GP-10	8150	1750	1970
GP-10	8159	1749	1969
GP-10	8163	1743	1971
GP-10	8165	1775	1970
GP-10	8169	1769	1971
GP-10	8170	1770	1971
GP-10	8171	1771	1971
GP-10	8179	1789	1971
GP-10	8181	1781	1971
GP-10	8188	1788	1970
GP-10	8190	1790	1970
GP-10	8194	1794	1971
GP-10	8199	1799	1970
GP-10	8211	1710	1971
GP-10	8233	1633	1968
GP-10	8234	1734	1971
GP-10	8254	1654	1971
GP-10	8258	1758	1970
GP-10	8260	1760	1971
GP-10	8269	1669	1971
GP-9	9376	1676	1959
GP-18	9400	1800	1960
GP-18	9402	1802	1960
GP-18	9405	1805	1960
GP-18	9406	1806	1960
GP-18	9408	1808	1960
GP-18	9413	1813	1960
GP-18	9414	1814	1960
GP-18	9420	1820	1963
GP-18	9426	1826	1963
GP-18	9427	1827	1963
GP-18	9428	1828	1963

GP-28	9438	1838	1964
GP-28	9439	1839	1964
GP-28	9440	1840	1964
SW-7R	1200	1200	1967
SW-13	1300	1300	1971
SW-13	1301	1301	1971
SW-14	1428	1228	1980

TO HAVE AND TO HOLD such Units of railroad equipment unto the Lessor, its successors and assigns, for its and their own use forever.

The Lessee hereby represents and warrants to the Lessor that, at the time of delivery and acceptance of each of said Units of Equipment under the Sale Agreement, the Lessee had lawful title thereto and good and lawful right to sell such Units and there are no liens, security interests or other encumbrances of any nature affecting the right, title or interest of the Lessor, other than in favor of the Lessor, in and to such Units of Equipment and the Lease Agreement dated as of December 20, 1988 between the Lessor and the Lessee, resulting from or constituting claims against the Lessee or resulting from any action of the Lessee. The Lessee covenants and agrees that it will defend

such title against the demands of all persons whomsoever based on claims originating prior to the delivery of such Units by the Lessee under the Sale Agreement.

IN WITNESS WHEREOF, the Lessee has caused this instrument to be signed by a duly authorized representative and its corporate seal to be hereunto affixed, duly attested, this day of December, 1988.

Donald R. Wood, Jr.
President

SEAL

Attesting Secretary

CO/47660.229/4-1

CERTIFICATE OF LESSOR'S ACCEPTANCE

TO: Chicago, Central & Pacific Railroad Company
1006 East 4th Street
Waterloo, Iowa 50703

I, the duly authorized representative for General Electric Capital Corporation (the "Lessor") under the Sale Agreement dated as of December 20, 1988, by and between Chicago, Central & Pacific Railroad Company (the "Lessee") and the Lessor (the "Sale Agreement"), do hereby certify that I inspected and accepted delivery thereunder of the following Units of standard-gauge railroad equipment which have been delivered by the Lessee to the Lessor pursuant to the Sale Agreement:

<u>MODEL TYPE</u>	<u>QUANTITY</u>	<u>BRIEF DESCRIPTION</u>	<u>VALUE/UNIT</u>
GP-10	45	1750 h.p., low nose 4 axle, 26L brake units.	\$110,000
GP-18	4	1750 h.p., low nose 4 axle, 26L brake units.	\$110,000
GP-18	7	1750 h.p., high nose 4 axle, 6BL brake units.	\$ 90,000
GP-28	3	1750 h.p., high nose 4 axle, 26L brake units.	\$ 85,000
GP-8	10	1500 h.p., low nose 4 axle, 26L brake units.	\$ 67,000
GP-9	1	1650 h.p., high nose 4 axle, 6BL brake units.	\$ 55,000

<u>MODEL TYPE</u>	<u>QUANTITY</u>	<u>BRIEF DESCRIPTION</u>	<u>VALUE/UNIT</u>
Switchers	4	Miscellaneous 1200 and 1300 h.p. units	\$ 50,000
	<u>74</u>		<u>\$7,200,000</u>

The execution of this Certificate will in no way relieve or decrease the responsibility of the Lessee for any warranties it has made with respect to the Units pursuant to the Sale Agreement.

Authorized Representative of Lessor

CO/47660.229/4-4

EXHIBIT B
to
LEASE AGREEMENT

TAX INDEMNIFICATION AGREEMENT

TAX INDEMNIFICATION AGREEMENT, dated as of December __, 1988, between General Electric Capital Corporation, a New York corporation (the "Owner"), and Chicago Central & Pacific Railroad Company (the "Lessee"), a Delaware corporation.

WHEREAS, Owner has entered into a Sale Agreement, dated as of December 20, 1988 (the "Sale Agreement") wherein the Lessee has agreed to sell and deliver to the Owner, and the Owner has agreed to purchase the units of railroad equipment described in Schedule I hereto (the "Equipment");

WHEREAS, the Lessee and the Owner are parties to a lease agreement, dated as of December 20, 1988 (the "Lease") providing, among other things, for the lease of the Equipment by the Owner to the Lessee;

WHEREAS, the parties hereto intend to set forth the circumstances under which the Lessee shall be required to pay to the Owner an indemnity for the loss of the Tax Benefits (as hereinafter defined);

SECTION 1. Definitions. For purposes of this Agreement:

- (a) the term "Owner" shall include
 - (i) the Owner and any affiliated group, within the meaning of Section 1504 of the Internal Revenue Code of 1986, as amended (the "Code"), of which the Owner is or may become a member if consolidated, joint or combined returns are filed by such affiliated group for federal, state or local income tax purposes and
 - (ii) any assignee or transferee of the Owner including any partnership to which the Owner transfers the Equipment, any partner in such partnership and any member of an affiliated group of which such assignee, transferee or partner is, or may become, a member, if consolidated, joint or combined returns are filed by such affiliated group for federal, state or local income tax purposes.

(b) the term "Tax Counsel" shall mean tax counsel to the Owner or an assignee or a partner of the Owner, as the case may be.

(c) the term "Placed in Service" shall mean placed in service within the meaning of Sections 46, 48, 167 and 168 of the Code and the applicable regulations promulgated thereunder.

(d) the term "Owner's Cost" shall mean the Equipment Cost plus such of the Transaction Costs as are properly includible in the Owner's basis in the Equipment under Section 1012 of the Code.

All other capitalized terms in this Agreement unless otherwise defined in this Agreement shall have the meanings specified in the Lease.

SECTION 2. Assumptions. The Net Economic Return, Basic Rent, Stipulated Loss Value and Termination Values have been agreed upon by Owner and Lessee on the basis of the following tax assumptions (the "Tax Assumptions"):

(a) the federal rate of tax on ordinary income of the Owner will be 34%, and the effective combined rate of tax imposed by all state and local taxing authorities on such income will be 0% and, in the absence of this transaction, the Owner will owe federal income taxes in an amount sufficient to absorb the Tax Benefits as defined herein (the "Assumed Tax Rates and Base");

(b) the Owner, as the beneficial owner of the Equipment, will be entitled to such deductions, credits and other benefits as are provided by the Code to an owner of property, including, without limitation: (i) deductions for depreciation under Section 167 of the Code, the regulations promulgated thereunder and applicable pronouncements of the Internal Revenue Service commencing in the year 1988 using a [15 year Asset Guideline Period] ("15-Year Property") (collectively, the "Cost Recovery Deductions") and (ii) amortization deductions pursuant to Section 167 of the

Code, calculated over the Basic Lease Term (the "Amortization Deductions"), for transaction costs not properly includible in the basis of the Equipment for federal income tax purposes (the Cost Recovery Deductions and Amortization Deductions are referred to collectively as the "Tax Benefits");

(c) all amounts includible in the gross income of the Owner with respect to the Equipment and all deductions and credits allowable to the Owner with respect to the Equipment will be treated as derived from, or allocable to, sources within the United States, and Owner will owe federal income taxes on its foreign source income in an amount sufficient to absorb all foreign tax credits generated by transactions unrelated to this transaction (the "Assumed Foreign Tax Base");

(d) the Owner will not, for federal, state or local income tax purposes, be required to include in its gross income any amount with respect to the Lease other than (i) Basic Rent, Renewal Rent and Supplemental Rent at the times and in the amounts it is actually paid or accrued under the terms of the Lease, or (ii) gain, if any, upon disposition of the Equipment; and

(e) the Lease will constitute a "true lease" for all tax purposes, and as a consequence the Owner will be the owner and lessor of the Equipment beginning on the Closing Date and the Lessee will be the lessee for all purposes under the Lease.

(f) (i) Lessee will deliver the locomotives in first class condition at the time the locomotives are sold to the Owner, and (ii) for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the

Association of American Railroads, if applicable, 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 Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment.

SECTION 3. No Inconsistent Action. The Lessee agrees that neither it nor any Affiliate thereof will at any time take any action or file any returns or other documents inconsistent with the assumptions set forth in Section 2, and that each will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent and purpose of this Agreement, the Lease and all other Operative Documents.

SECTION 4. Representations, Warranties, and Covenants of Lessee. The Lessee represents and warrants or covenants, as is appropriate, as follows:

(a) immediately prior to the Closing Date, the Equipment was owned by Lessee;

(b) on the Closing Date, the Equipment will require no improvements, modifications, or additions (other than ancillary items of readily removable equipment of a kind that customarily are selected and furnished by purchasers or lessees of similar Railroad Equipment) in order to be rendered complete for its intended use by the Lessee;

(c) no part of the Equipment is, or will become during the Basic Lease Term or any Renewal Lease Term, "public utility property" within the meaning of Section 168(g)(1) and 167(1)(3)(A) of the Code;

(d) the Equipment will have an "unadjusted basis," within the meaning of Section 168(d) of the Code, equal to that part of the Owner's Cost attributable thereto (as set forth in Section 1(d) hereof) for purposes of determining the respective Cost Recovery

Deductions allowable to the Owner with respect to such property;

(e) the Equipment constitutes, and will constitute throughout the Basic Lease Term and any Renewal Lease Term, 15-Year Property for purposes of depreciation deductions allowable under Section 167 of the Code;

(f) the Lessee will not at any time during the Lease Term use or fail to use (including any use or failure to use by a sublessee or assignee) the Equipment in such a manner as to (i) disqualify it as 15-Year Property, or (iii) result in the disallowance or recapture of the Tax Benefits;

(g) the Lessee will not at any time during the Basic Lease Term or Renewal Lease Term use or fail to use (including any use or failure to use by a sublessee or assignee) the Equipment in a manner as to cause the Equipment or any portion thereof not to qualify as for the allowance of Tax Benefits on the part of the Owner;

(h) the Equipment is not "limited use property" as determined in accordance with Revenue Procedure 75-21, 1975-1 C.B. 715, as modified by Revenue Procedure 76-30, 1976-2 C.B. 674;

(i) all information supplied by the Lessee or any affiliate thereof to any independent appraiser or engineer or any independent counsel with respect to the description, nature, function, testing and cost of the Equipment, including but not limited to facts relating to its intended use, economic life and residual value, was complete and accurate in all material respects at the time given, the Lessee believes the Appraisal (attached hereto as Exhibit II) to be reasonable, and no fact has come to the Lessee's attention which casts doubt on that opinion;

(j) at times during the Basic Lease Term and any Renewal Lease Term the Lessee will not prevent the Owner from being entitled to treat each item of income, deduction and credit relating to the Equipment, as being derived from, or allocable to, sources within the United States;

(k) at all times during the Basic Lease Term, the Lessee or any of its Affiliates (as defined in Revenue Procedure 75-21, 1975-1 C.B. 715) will not have made any investment in the Equipment that is not permitted by Section 4(4) of Revenue Procedure 75-21, 1975-1 C.B. 715, as modified in Revenue Procedure 79-48, 1979-2 C.B. 529;

(l) the Lessee will deduct all rental payments under the Lease when and as paid or accrued under the terms of the Lease, without application of Section 467(b)(2) through (5) of the Code;

(m) on the Closing Date, Owner's Cost equals the fair market value of the Equipment;

(n) the sum of the Basic Lease Term and the Interim Lease Term is not longer than 80% of the reasonably estimated useful life of the Equipment and the reasonably estimated residual value at the end of the Basic Lease Term will not be less than 20% of Owner's Cost; and

(o) the conclusions set forth in the Appraisal are correct (although this representation does not constitute a guarantee of the value of the Equipment to the Owner at the end of the Basic Lease Term).

(p) the Lease will constitute a "true lease" for all tax purposes, and as a consequence the Owner will be the owner and lessor of the Equipment beginning on the Closing Date and the Lessee will be the lessee for all purposes under the Lease.

SECTION 5. Indemnity for Acts or Misrepresentations of Lessee.

(a) If (i) as a result of any act of omission or commission (including acts permitted or required by the Lease or other Operative Documents), misrepresentation, or breach of any agreement, covenant or warranty contained herein or in any of the Operative Documents or any exhibit or schedule hereto or thereto, on the part of the Lessee, any Affiliate or Subsidiary of Lessee, or any permitted assignee or sub-lessee of the Lessee or other user of the Equipment other than Owner, or (ii) as a result of the Lessee making any addition, improvement, or modification to the Equipment pursuant to Section 13(b) of the Lease, either

(A) the Owner shall at any time lose the right to claim, shall not claim (as the result of a good faith determination of Tax Counsel that such claim is not properly allowable), shall be delayed in claiming, shall suffer a disallowance of, or shall be required to recapture all or any portion of, the Tax Benefits; or

(B) the Owner shall be required to include in its gross income at any time any amount with respect to the Lease other than (x) Basic Rent, Renewal Rent and Supplemental Rent at the times and in the amounts it is actually paid or accrued under the terms of the Lease and (y) gain, if any, upon disposition of the Equipment;

or

(iii) for any reason Owner shall at any time be required to treat any item of income, deduction or credit relating to the Equipment as derived from, or allocable to, sources outside the United States;

(any such event described in Clause (i), (ii) or (iii) hereinafter referred to as a "Loss"), the Owner shall give notice to Lessee of such Loss accompanied by a written statement describing in reasonable detail the Loss and the computation of such amount, which after deduction for all federal, state, local and other taxes payable with respect to the receipt of such amount, shall in the reasonable opinion of the Owner, if paid on the next succeeding Payment Date subsequent to the Loss, cause the Owner's Net Economic Return to equal the Net Economic Return that would have been realized by the Owner if such Loss had not occurred (and, except for the variation in the Tax Assumptions caused by the Loss, as if the Tax Assumptions had remained unchanged), and Lessee shall pay such amount to the Owner on the Payment Date immediately subsequent to such Loss. The amounts payable pursuant to this Section 5 shall be calculated in accordance with the Assumed Tax Rates and Base and the Assumed Foreign Tax Base.

(b) At the request of Lessee, the accuracy of Owner's calculation of the amount or amounts of any indemnity to be paid pursuant to the preceding paragraph shall be verified by the firm of certified public accountants regularly employed by Owner or, at Lessee's option, any other nationally recognized firm of independent certified public accountants selected by Owner and reasonably acceptable to the Lessee. In order to enable such accountants to verify the indemnity amount, Owner shall provide to the accountants (for their own confidential use) information reasonably necessary for such verification; provided, however, such information shall not be disclosed to Lessee or any other person, and Owner shall not be required to furnish any income tax returns or working papers unless the accountants are the certified public accountants regularly employed by the Owner. The accountant's report to Lessee will consist solely of the statement that the calculation was or was not correct, and will not contain a detailed basis for such conclusion; provided,

however, that if the amount asserted to be payable is determined to be incorrect, the report will set forth the corrected amount. The cost of such report shall be borne by Lessee unless the amount asserted to be payable is determined to be incorrect by 15% of the amount determined to be payable, in which case such costs will be borne by the Owner.

(c) The Lessee shall not be required to make payment to Owner pursuant to this Section 5 with respect to a Loss if the Lessee has made payments pursuant to Section 10 of the Lease in respect of recovery of Stipulated Loss Value of the Equipment or pursuant to Section 11 of the Lease in respect of the Termination Value of the Equipment in respect of such Loss that fully compensate the Owner for such loss.

SECTION 6. Contest Provisions.

(a) If the Internal Revenue Service proposes an adjustment in the federal [state and local] income taxes of Owner for which Lessee would be required to indemnify Owner pursuant to this Tax Indemnification Agreement, Owner shall notify Lessee in writing within a reasonable time not exceeding 30 days after the revenue agent's report is issued, and if the amount of the indemnity payment that Lessee would be required to make exceeds \$200,000, then, if requested by Lessee in a written request received by Owner within 30 days after Owner has so notified Lessee of its indemnification obligation, Owner shall promptly request an opinion of independent tax counsel of recognized national standing selected by Owner, reasonably acceptable to and compensated by Lessee, as to whether the basis in law and in fact in favor of allowance of the item proposed to be adjusted outweighs the basis in law and in fact to the contrary. If the opinion is to that effect, and if Lessee requests Owner to do so within 30 days after receipt of that opinion, Owner shall contest the proposed adjustment; provided, however, that Tax Counsel shall determine in its sole discretion the nature of all action to be taken to contest the proposed adjustment including (A) whether any action to contest the proposed adjustment initially shall be by judicial or administrative proceedings, or both, (B) whether any proposed adjustment shall be contested by resisting payment or by paying the adjustment and seeking a refund, and (C) if Owner

shall undertake judicial action with respect to the proposed adjustment, the court or other judicial body before which the action shall be commenced. Owner shall have full control over any contest pursuant to this Section 6, and shall not be obligated to pursue an appeal from any adverse determination by any court. At any time, whether before or after commencing any action set forth in this Section 6, Owner may decline to take any action with respect to all or any portion of a proposed adjustment by notifying Lessee in writing that Lessee is relieved of its obligation to indemnify Owner with respect to the portion of the adjustment as to which action was declined.

(b) Owner shall not be required to take any action pursuant to this Tax Indemnification Agreement unless and until Lessee shall have agreed in writing (A) to indemnify Owner in a manner reasonably satisfactory to Owner for contesting the validity of any proposed adjustment, (B) to pay to Owner at the beginning of each month all costs and expenses that Owner is reasonably expected to incur in that month in connection with contesting the proposed adjustment (including fees and disbursements of counsel selected by Owner) less any such estimated costs and expenses for previous months paid to Owner but not expended by Owner, and (C) that the adjustment at issue is one for which Lessee is required to indemnify Owner pursuant to Section 5 of this Tax Indemnification Agreement if the adjustment is upheld. If it is determined that an adjustment will be contested by paying the additional tax and suing for a refund, Lessee shall pay to Owner an amount, which after deduction for all federal, state, local and other taxes payable with respect to the receipt of such amount, equals the sum of any tax, interest, penalties and additions to tax that are required to be paid (the "After-tax Tax Payment"). Upon receipt by Owner of a refund of any amounts paid by it in respect of which it shall have been paid an amount by Lessee, Owner shall pay Lessee the amount of the refund (or the portion of it that is property allocable to the adjustment) together with any interest received by it on the refund. If the contest pursuant to this Section 6 is not successful and the Lessee has paid to the Owner the After-tax Tax Payment, and the sum of (i) the After-tax Tax Payment and (ii) other amounts paid by the Lessee to the Owner pursuant to this Section 6 exceeds the sum of (i) the amount that would have been payable by the Lessee pursuant to Section 5(a) hereof and (ii) any incremental cost or expenses (including without limitation any additional taxes, penalties or interest) incurred by the Owner as a result of the contest, then the Owner shall

promptly pay to the Lessee the amount of such difference; provided, however, that the Owner shall not be obligated to make such payment if an Event of Default has occurred and is continuing.

SECTION 7. Records and Statements. The Lessee shall maintain records of the kind it would be required to maintain if Lessee were the owner of the Equipment for federal income tax purposes (including records of any use of the Equipment outside the United States), and shall provide Owner with copies of any records Owner may reasonably request to enable Owner to prepare its income tax returns.

SECTION 8. No Setoff. No payment required to be made by the Lessee pursuant to this Agreement shall be subject to any right of setoff, counterclaim, defense, abatement, suspension, deferment or reduction, and the Lessee shall have no right to terminate this Agreement or to be released, relieved or discharged from any obligation or liability under this Agreement for any reason whatsoever.

SECTION 9. Survival of Agreement. The obligations and liabilities of the Lessee and Owner arising under this Agreement shall continue in full force and effect, notwithstanding the expiration or other termination of the Lease or this Agreement, until all such obligations have been met and such liabilities have been paid in full. The obligations and liabilities of the Lessee arising under this Agreement are expressly made for the benefit of, and shall be enforceable by, the Owner's successors and assigns and the obligations and liabilities of Owner arising under this Agreement are expressly made for the benefit of, and shall be enforceable by, the Lessee's successors and assigns.

SECTION 10. Payments. Any payments made pursuant to this Agreement shall be made directly to the Owner or the Lessee, as the case may be, and any payments shall be made by wire transfer of such funds to such bank and/or account in the continental United States as specified by the Owner or Lessee in written directions, and if no such direction shall have been given, by check sent certified mail, postage prepaid to the address set forth in or duly notified pursuant to the Lease.

SECTION 11. Late Payments. Any late payment by any party hereto of any of its obligations under this Agreement shall result in the obligation on the part of such party

promptly to pay an amount equal to the late payment amount plus interest thereon computed at the Overdue Rate.

SECTION 12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 13. Counterparts. This Agreement may be executed simultaneously in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute and be one and the same instrument.

IN WITNESS WHEREOF, Lessee and Owner have caused this instrument to be duly executed, all as of the day and year first above written.

GENERAL ELECTRIC CREDIT CORPORATION

By _____
Title

CHICAGO CENTRAL & PACIFIC RAILROAD
COMPANY

By _____
Title

789/47660.229/3-1

EXHIBIT C

Certificate of Lessee's Acceptance

To: General Electric Capital Corporation
1600 Summer Street
Stamford, Connecticut 06904

I, the duly authorized representative for Chicago, Central & Pacific Railroad Company (the "Lessee") under the Lease Agreement of Railroad Equipment dated as of December __, 1988, do hereby certify that I inspected and accepted delivery thereunder of the Units described in Schedule I hereto.

I do further certify that each of the foregoing Units has been marked by means of a stencil printed in contrasting colors upon each side of each such Unit in letters not less than one inch in height as follows:

"Ownership filed with the Interstate Commerce Commission".

The execution of this Certificate will in no way relieve or decrease the responsibility of the Lessee for any warranties it has made as Seller with respect to the Equipment pursuant to the Sale Agreement.

Authorized Representative of Lessee

CERTIFICATE OF LESSOR'S COST

CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY, a Delaware corporation (the "Lessee"), in accordance with the provisions of that certain Lease Agreement of Railroad Equipment, dated as of December __, 1988, between GENERAL ELECTRIC CAPITAL CORPORATION (the "Lessor"), and the Lessee, (the "Lease") (all capitalized terms used herein without other definition having the meanings therefor set forth in the Lease), DOES HEREBY CERTIFY THAT:

1. As of the date of this Certificate, the total Lessor's Cost to be funded on the Closing Date is \$ _____, including (a) \$ _____ attributable to Equipment Cost and (b) \$ _____ attributable to Transaction Costs.

2. The items included in Lessor's Cost to be funded on the Closing Date, grouped by major categories, showing Equipment Cost and Transaction Costs separately, are set forth in the attached Schedule 1.

3. During the period commencing on the date hereof through _____, 1989, the Lessee expects to incur \$ _____ of Lessor's Cost, including (a) \$ _____ attributable to Equipment Cost and (b) \$ _____ attributable to Transaction Costs. The items included in the foregoing estimate, grouped by major categories, showing Equipment Cost and Transaction Costs separately, are set forth in the attached Schedule 2.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Lessor's Cost to be duly executed by its duly authorized representative on December __, 1988.

CHICAGO, CENTRAL & PACIFIC
RAILROAD COMPANY

By: _____
Name: _____
Title: _____

Schedule 1
to
Certificate of
Lessor's Cost

Items Included in Lessor's Cost

<u>Item</u>	<u>Equipment Cost</u>	<u>Transaction Costs</u>	<u>Total Cost</u>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

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Schedule 2
to
Certificate of
Lessor's Cost

Items Included in Estimate of
Lessor's Cost Through _____, 1989

<u>Item</u>	<u>Equipment Cost</u>	<u>Transaction Costs</u>	<u>Total Cost</u>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

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