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OF COUNSEL  
HERMAN A. LESTER

19061 [Signature]

*Counterparts - Betty [Signature]*

November 14, 1994

19061-A

RECEIVED  
NOV 14 1994

Mr. Vernon A. Williams  
Acting Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two copies each of a Railcar Lease, a primary document, dated as of November 1, 1994 and Lease Supplement No. 1, a secondary document related thereto, dated as of November 14, 1994.

The names and addresses of the parties to the enclosed document are:

Lessor: Pitney Bowes Credit Corporation  
201 Merritt Avenue  
Norwalk, Connecticut 06856

*v* Lessee: Ohio Valley Electric Corporation  
PO Box 468  
Piketon, Ohio 45661

A description of the railroad equipment covered by the enclosed document is:

*500 railcars OVEEX 6001 - OVEEX 6500, inclusive*  
~~Fifty (50) flatcars BAR 2300 through BAR 2349, inclusive.~~

Mr. Vernon A. Williams  
November 14, 1994  
Page 2

Also enclosed is a check in the amount of \$42.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return one stamped copy of each of the enclosed documents to the undersigned.

Very truly yours,

A handwritten signature in cursive script, appearing to read "R. Alvord", written in black ink.

Robert W. Alvord

RWA/bg  
Enclosures

11/14/94

Interstate Commerce Commission  
Washington, D.C. 20423

OFFICE OF THE SECRETARY  
Robert W. Alvord  
Alvord And Alvord  
918 Sixteenth Street, NW., Ste. 200  
Washington, DC. 20006-2973

Sir:

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of  
the Interstate Commerce Act, 49 U.S.C. 11303, on 11/14/94 at 1:45PM  
19061., and 19061-A. at , and  
assigned recordation number(s).

Sincerely yours,

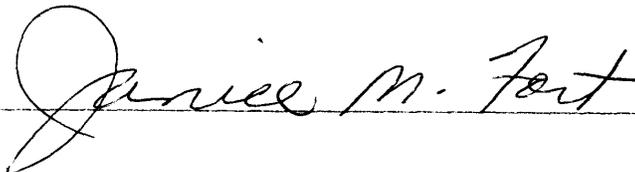
  
Vernon A. Williams  
Acting Secretary

Enclosure(s)  
(0100429054)

42.00

\$\_\_\_\_\_ The amount indicated at the left has been received in payment of a fee  
in connection with a document filed on the date shown. This receipt is issued for the  
amount paid and in no way indicates acknowledgment that the fee paid is correct. This is  
accepted subject to review of the document which has been assigned the transaction number  
corresponding to the one typed on this receipt. In the event of an error or any questions  
concerning this fee, you will receive a notification after the Commission has had an  
opportunity to examine your document.

Signature



19061

RAILCAR LEASE

Dated as of November 1, 1994

Between

PITNEY BOWES CREDIT CORPORATION,  
as Lessor

And

OHIO VALLEY ELECTRIC CORPORATION,  
as Lessee

This Railcar Lease dated as of November 1, 1994 (the "Lease"), by and between PITNEY BOWES CREDIT CORPORATION, a Delaware corporation (the "Lessor"), and OHIO VALLEY ELECTRIC CORPORATION, an Ohio corporation (the "Lessee").

In consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

Section 1. Definitions.

For purposes of this Lease, capitalized terms used herein shall have the meanings assigned to them in Annex 1 hereto, as the same may be amended from time to time (such definitions to be equally applicable to both the singular and plural forms of the terms defined). Any term defined by reference to an agreement, instrument or other document shall have the meaning so assigned to it whether or not such document is in effect. Unless otherwise indicated, references without qualification in this Lease to sections, paragraphs, clauses, appendices, schedules and exhibits are to the same contained in or attached to this Lease.

Section 2. Agreement for Lease of Equipment.

Subject to, and upon all of the terms and conditions of this Lease, Lessor hereby agrees to lease to Lessee and Lessee hereby agrees to lease from Lessor each Item of Equipment for the Lease Term.

Section 3. Delivery and Acceptance of Equipment.

Lessor shall not be liable to Lessee for any failure or delay in obtaining any Item of Equipment or making delivery thereof. Upon execution and delivery of a Lease Supplement substantially in the form attached hereto as Exhibit B by Lessor and Lessee, the Items described therein shall be deemed to have been delivered to and accepted by Lessee as agent for Lessor under the respective Acquisition Agreement and for all purposes of this Lease, and thereupon shall be subject to all of the terms, provisions and conditions of this Lease.

Lessee's execution and delivery of a Lease Supplement shall be evidence that the Items of Equipment listed therein have been subjected to this Lease on the terms hereof. Lessee's execution and delivery of a Lease Supplement with respect to an Item of Equipment pursuant to this Section 3 shall conclusively establish that, as between Lessor and Lessee, but without limiting or otherwise affecting Lessor's or Lessee's rights, if any, against any other Person, such Item of Equipment is acceptable to and irrevocably accepted by Lessee as agent for Lessor under the respective Acquisition Agreement and under the Lease, notwithstanding any defect with respect to design, manufacture, condition or any other matter or the failure of any such Item of Equipment to comply to the specifications applicable thereto, and that, as between Lessor and Lessee, such Item of Equipment is in good order and condition.

Section 4. Lease Term.

The interim term (the "Interim Term") for each Item of Equipment shall commence on the Acceptance Date for such Item of Equipment and shall terminate at the end of the day on December 29, 1994 unless this Lease is sooner terminated with respect to such Item pursuant to the provisions hereof. The basic term (the "Basic Term") for each Item of Equipment shall commence on December 30, 1994 (the "Basic Term Commencement Date") for such Item and, unless this Lease is sooner terminated with respect to such Item (or all Equipment) pursuant to the provisions hereof, shall terminate on December 30, 2005. If not sooner terminated pursuant to the provisions hereof, the Lease Term for each Item of Equipment shall end on the last day of the Basic Term thereof, or if this Lease is renewed pursuant to Section 25(a) hereof, on the last day of the last Renewal Term thereof.

Section 5. Return of Equipment.

(a) Return of Equipment upon Expiration of Term. Upon the expiration or earlier termination of the Lease Term with respect to each Item of Equipment and so long as no Default or Event of Default has occurred and is continuing (and provided, in the case of the expiration of the Lease Term, that Lessee has not exercised its purchase option under Section 25(b) hereof), Lessee will undertake to deliver possession of each Item of Equipment to Lessor, at either Kansas City, Missouri or Chicago, Illinois, at Lessee's election (the "Redelivery Location"). Lessee at Lessee's expense and risk shall permit Lessor to store the Equipment at the Redelivery Location for a period not exceeding 30 days. In addition, Lessee will use reasonable efforts to assist the Lessor in securing storage space at Lessor's expense and risk for an additional period of time. Any Item of Equipment delivered to a Redelivery Location shall be deemed to be redelivered hereunder on the date on which such Item of Equipment shall have been delivered to any Redelivery Location, and Fixed Rent or Renewal Rent, as the case may be, with respect to any Item of Equipment shall cease to accrue.

(b) Return of Equipment upon Default. If the Lessor shall terminate this Lease pursuant to Section 19 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item to the Lessor as above required, the Lessee shall at its own cost, expense and risk: (i) forthwith deliver such Items to not more than two (2) locations as the Lessor shall designate, and (ii) permit the Lessor to store such Item for a period of 360 days and so store at such locations without charge for insurance, rent or storage, and during such period of storage the Lessee shall continue to maintain all insurance required by Section 16 hereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 5(b), the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority (which power is coupled

with an interest), at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor after the occurrence of an Event of Default, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

(c) Essence of Lease. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

Section 6. Rent.

(a) Interim Rent. Lessee shall not be liable for any Interim Rent.

(b) Fixed Rent. Lessee hereby agrees to pay Lessor Fixed Rent for the use by Lessee of each Item of Equipment during the Basic Term, in consecutive semi-annual installments, in arrears, due and payable on each Rent Payment Date and continuing until the expiration or earlier termination of the Basic Term, with each such installment to be in an amount equal to the product obtained by multiplying (i) the Purchase Price of such Item of Equipment by (ii) the applicable percentages set forth in Exhibit C attached hereto. Lessee hereby agrees to pay Lessor Fixed Rent for each Item of Equipment during each Renewal Term thereof as specified in Section 25(a) hereof.

(c) Supplemental Rent. Lessee also agrees to pay to Lessor, or to whomever shall be entitled thereto, all Supplemental Rent, as the same shall become due and owing. Lessee shall also pay to Lessor (and, in the case of payments of Supplemental Rent payable to other Persons hereunder, such other Persons) on demand, as Supplemental Rent, to the extent permitted by applicable law, interest at the Late Rate on any part of any installment of Fixed Rent or any amount due under Section 19 hereof not paid when due at or prior to the time specified for such payment for any period for which the same shall be overdue. The payment or satisfaction of Lessee's obligation with respect to Fixed Rent or any installment thereof shall not limit any obligation of Lessee which may have accrued during the Lease Term with respect to Supplemental Rent. In the event of any failure on the part of Lessee to pay any such Supplemental Rent hereunder Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of Rent.

(d) Method of Payment. All payments of Fixed Rent and Supplemental Rent required to be made by Lessee to Lessor shall be made by 11:00 A.M. Atlanta, Georgia time on the date payment is due in United States dollars and in immediately available funds. If any such date is not a Business Day, then payment shall be due on the next succeeding Business Day and if paid on such Business Day

by 11:00 A.M. Atlanta, Georgia time, such payment shall be without interest or penalty. In the event of any assignment pursuant to Section 13(b) hereof, all payments or right to payments which are properly assigned thereunder, whether Fixed Rent, Supplemental Rent or otherwise, shall be paid to such address as shall be designated by Lessor and any such assignee. All payments of Rent shall be paid by Lessee to Lessor at its office at 201 Merritt Seven, Norwalk, CT 06856-5151, or as Lessor may otherwise direct from time to time in writing.

(e) Adjustments to Rent. The percentages for Fixed Rent, Stipulated Loss Value and Termination Value set forth in Exhibits C and D, have been calculated in part on the basis of the Pricing Assumptions. If any such Pricing Assumption proves to have been incorrect, then such percentages for Fixed Rent, Stipulated Loss Value and Termination Value shall be adjusted (upward or downward) so as to preserve Lessor's Net Economic Return. Any adjustments pursuant to this Section 6(e) shall (A) satisfy the provisions of Revenue Procedure 75-28 and any other applicable statutes, regulations, revenue procedures, revenue rulings or technical information releases relating to the subject matter of such Revenue Procedure, (B) be made in a manner designed to avoid application of Section 467(b)(2) of the Code and any regulations thereunder or any other similar provision of Federal income tax law and not otherwise cause any adverse effect under any Federal income tax law in effect at the time of such adjustment, and (C) to the extent possible and not inconsistent with the foregoing, minimize the net present value of the remaining Fixed Rent.

(f) Computation of Adjustments.

(i) Upon the occurrence of an event requiring adjustments to the percentages for Fixed Rent, Stipulated Loss Value and Termination Value pursuant to Section 6(e), Lessor shall make the necessary computations on a basis consistent with that used by Lessor in the computation of the percentages for Fixed Rent, Stipulated Loss Value and Termination Value in connection with the execution and delivery of this Lease, taking into account only the event giving rise to the adjustments. Subject to paragraph (ii) of this Section 6(f), such adjustments shall be effective 30 days after the date Lessor shall have furnished to Lessee a certificate signed on behalf of Lessor by a responsible officer confirming that such adjustments have been properly computed in accordance with the provisions of this Lease, and shall remain effective until changed in consequence of any inaccuracy discovered in the course of any verification procedure conducted pursuant to paragraph (ii) of this Section 6(f).

(ii) Within 30 days after Lessor shall have provided Lessee with a certificate pursuant to paragraph (i) of this Section 6(f), Lessee either shall confirm the accuracy of such computation or shall notify Lessor that such computation, and the resulting adjustments proposed by Lessor, are inaccurate. In the latter event, Lessor and Lessee agree

to submit the matter to an investment banker or another Person which specializes in the pricing and financial analysis of leveraged leases, and the conclusion of such firm or other Person as to the proper adjustments shall be conclusive and binding on Lessee and Lessor. All expenses incurred by Lessor and Lessee in connection with the verification procedures described in this paragraph (ii) shall be shared equally by Lessee and Lessor. Each adjustment of the percentages for Fixed Rent, Stipulated Loss Value and Termination Value shall be evidenced by the execution and delivery of a supplement to this Lease in form and substance satisfactory to Lessee and Lessor, and shall be effective as provided herein without regard to the date on which such supplement to this Lease is so executed and delivered.

Section 7. Net Lease.

This Lease is a net lease and Lessee acknowledges and agrees that Lessee's obligations hereunder shall be absolute and unconditional under any and all circumstances and shall be paid without notice or demand and without any abatement, reduction, suspension, diminution, deferral, setoff, defense, counterclaim or recoupment whatsoever, including, without limitation, any abatement, reduction, suspension, diminution, deferral, setoff, defense, counterclaim or recoupment due or alleged to be due to, or by reason of, any past, present or future claims which Lessee may have against Lessor, any assignee, any vendor or manufacturer of the Equipment or any part or Item thereof, or any other Person, either under this Lease or otherwise, for any reason whatsoever; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the obligations of Lessee be otherwise affected for any reason whatsoever, including any defect in or damage to or loss of possession or loss of use or destruction of the Equipment or any part or Item thereof, the condition, design, operation or fitness for use thereof, any Liens or rights of others with respect to the Equipment or any part or Item thereof, any prohibition or interruption of or other restriction against Lessee's use, operation or possession of the Equipment or any part or Item thereof, or any interference with such use, operation or possession by any Person or entity (including confiscation, requisition or other taking by any governmental authority, any person acting under governmental authority or otherwise, or action of any public or private person, whether by eviction by paramount title or for any other reason whatsoever), the invalidity or unenforceability or lack of due authorization of this Lease, any defect in the title to, compliance with plans or specifications for all or any of the Items of Equipment, any insolvency of or any bankruptcy, reorganization or other proceeding against Lessee, Lessor or any other person, 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 and agreement of the parties hereto, and the basis of the bargain, that (to the extent permitted by applicable law) Fixed Rent, Renewal Rent, Supplemental Rent and other amounts payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein

provided unless and until the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

Without limiting the generality of the foregoing, Lessee covenants that it will remain obligated under this Lease in accordance with its terms, and will not take any action to terminate (except in accordance with the express provisions hereof), rescind or avoid this Lease for any reason, notwithstanding any insolvency, bankruptcy, reorganization or other proceeding affecting Lessor or any property of Lessor, or any action which may be taken by any receiver, trustee or liquidator (or other similar official) or by any court.

Nothing in this Section or in any other provision of this Lease shall preclude any separate, independent claim (not by way of abatement or reduction of any amount at any time payable by Lessee hereunder) by Lessee for the breach of any representation, covenant, undertaking or agreement made herein for the benefit of Lessee by Lessor.

Section 8. Lessor's Title; Equipment to Be and Remain Personal Property.

Title to the Equipment shall at all times remain in Lessor and at no time during the Lease Term shall title become vested in Lessee. This Lease is and is intended to be a true lease and not a lease intended as security or a lease in the nature of a security interest. Lessee shall acquire no right, title or interest in or to the Equipment, except the right to use the same pursuant to the terms of this Lease. It is the intention and understanding of both Lessor and Lessee that the Equipment shall be and at all times remain personal property.

Section 9. Use of Equipment; Compliance with Laws.

Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of the Equipment during the lease thereof. Lessee agrees that the Equipment will be used and operated solely in the regular course of its business and in compliance with all statutes, laws, ordinances, rules and regulations of any Federal, state or local governmental body, agency or authority applicable to the use and operation of the Equipment. If such laws or rules require any alteration, replacement or addition of or to any part on any Item of Equipment, Lessee will conform therewith at its own expense. Lessee agrees not to operate or locate any Item of Equipment, or to suffer any Item of Equipment to be operated or located, in any area excluded from coverage by any insurance policy required by the terms of Section 16 hereof or, subject to the prior written consent of Lessor, not be unreasonably withheld, to operate or locate any Item of Equipment in such a manner as to violate the terms of any insurance policy required by the terms of said Section 16.

Lessee shall procure and maintain in effect all licenses, registrations, certificates, permits, approvals and consents

required by Federal, state or local laws or by any governmental body, agency or authority in connection with the use and operation of each Item of Equipment, including any instruments required by the AAR. Notwithstanding the foregoing sentence, however, Lessor will cause this Lease and the Warranty Bill of Sale to be filed and recorded with the Interstate Commerce Commission ("ICC") in accordance with Section 20c of the Interstate Commerce Act, and will 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) this Lease and any and all amendments or supplements to this Lease, in connection with any assignment or sublease pursuant to Section 13(a) or otherwise, any financing statements or similar instruments, and any and all further instruments required by law or reasonably requested by Lessor, for the purpose of protecting Lessor's title to any Item of Equipment to the satisfaction of Lessor or for the purpose of carrying out the intention of this Lease, including, without limitation, any such filings and recordings as shall be necessary to evidence any change in name of Lessee or Lessor, or any merger or consolidation thereof. Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and re-recording or depositing and redepositing of any such instruments or incident to the taking of such action, other than the fees and expenses of the Lessor in connection with any such instruments requested by the Lessor. This Lease shall be filed and recorded with the ICC prior to the delivery and acceptance hereunder of any Item.

The Equipment will at all times during the Lease Term be and remain in the possession and control of Lessee, subject to the terms of Section 13(a) hereof. Lessee shall operate the Equipment and permit the Equipment to be located only in the contiguous forty-eight states of the United States. Lessee shall not use and will not permit any other person to use any Equipment or allow the same to be used for any unlawful purpose. Lessee shall use and operate the Equipment or cause it to be used and operated only by personnel authorized by Lessee, and Lessee shall use every reasonable precaution to prevent loss or damage to each Item of Equipment from fire and other hazards. Lessee shall use the Equipment only in the manner for which it was designed and intended.

Section 10. Maintenance and Repair of Equipment.

Lessee shall, at its own expense, (i) keep the Equipment in satisfactory repair, condition and working order, and as otherwise may be required by any insurance policies maintained pursuant to Section 16 or to enforce warranty claims against each vendor and manufacturer of each Item of Equipment, ordinary wear and tear excepted; (ii) maintain the Equipment in accordance with the standards then in effect under the Interchange Rules or similar successor guidelines of the AAR (the "Interchange Rules"), and at least equal to the standards of maintenance which Lessee performs on similar equipment owned or leased by Lessee; and (iii) comply

with all requirements of law applicable to the maintenance and condition of the Equipment.

Section 11. Replacements; Alterations; Modifications.

Lessee shall make all alterations, modifications, additions or attachments deemed necessary by any Federal, state or local governmental agency for the continued usefulness of the Equipment. Lessee may, at its sole expense, make other alterations, modifications, additions or attachments to the Equipment so long as the value and general usefulness of the Equipment is not reduced thereby and so long as such alterations, modifications, additions or attachments do not cause such Items to become a limited use property within the meaning of Revenue Procedure 76-30, 1976-2 C.B. 647 (or such other successor tax provision). So long as no Event of Default has occurred and is continuing, and so long as the value and usefulness of the Equipment (exclusive of any such alterations, modifications, additions or attachments) is not reduced thereby, any such alteration, modification, addition or attachment, which was paid for by Lessee and not reimbursed or otherwise compensated for by Lessor, shall remain the property of Lessee and may (subject to the last two sentences of this Section 11), be removed by Lessee prior to return of the Equipment pursuant to Section 5 hereof. If any alteration, modification, addition or attachment to an Item of Equipment (i) is a replacement of existing parts constituting part of the Items of Equipment, (ii) was made in the course of ordinary and proper maintenance of the Items of Equipment, (iii) is required by Federal, state or local law in order to permit the continued usefulness of the Equipment; or (iv) cannot physically be removed without material damage to the Equipment, it shall become the property of Lessor, and shall be subject to all the terms of this Lease. Upon termination of this Lease, Lessor shall have the option to purchase from Lessee any alterations, modifications, additions or attachments to any Item of Equipment not described in the preceding sentence at the Fair Market Sales Value of such alterations, modifications, additions or attachments, as the case may be.

Section 12. Identification Marks; Inspection.

Lessee agrees, at Lessee's cost and expense, to place markings on the Equipment by stencil or by a metal tag or plate affixed thereto showing Lessor's title thereto and ownership thereof; provided, however, that such identification markings are to be placed so as not to interfere with the usefulness and utility of such Item of Equipment. If during the Lease Term any such identification marking shall be defaced or destroyed, Lessee shall cause such defaced or destroyed identification marking to be restored or replaced. Lessee will cause each Item of Equipment to be kept numbered with the road number and serial number as shall be set forth in any Lease Supplement hereto extending this Lease to cover such Item of Equipment. Lessee shall not allow the name of any other Person to be placed on any Item of Equipment as a designation that might be identified as a claim of ownership or any other interest therein; provided, that nothing herein contained

shall prohibit Lessee or its permitted sublessees from placing its customary colors and insignia on any Item of Equipment or from naming each Item of Equipment. Lessee will not change the identification number of any Item of Equipment unless and until (i) a statement of a new number or numbers to be substituted therefor shall have been delivered to Lessor and filed, recorded and deposited by Lessee in all appropriate public offices, including the public offices where this Lease shall have been filed, recorded and deposited, and (ii) Lessee shall have furnished Lessor an opinion of counsel in form and substance reasonably satisfactory to them to the effect that such statement has been so filed, recorded and deposited and that such filing, recordation and deposit will protect Lessor's interest in such Items of Equipment. Upon the reasonable request of Lessor, Lessee shall make the Equipment available to Lessor for inspection and shall also make Lessee's records pertaining to the Equipment reasonably available to Lessor for inspection, it being understood and agreed that Lessor shall have no obligation to make such inspection and shall incur no liability for failure to do so.

Section 13. Assignments and Subleases.

(a) By Lessee. Lessee will not, without the prior written consent of Lessor, assign its lease of any Item of Equipment, or transfer or encumber its rights or obligations hereunder, and any attempted assignment, transfer or encumbering by Lessee shall be null and void; *provided, however,* subject to the receipt of any necessary regulatory approvals, Lessee may, so long as no Default or Event of Default shall have occurred and be continuing, assign its lease of any Item of Equipment to an Affiliate without the prior consent of Lessor if Lessee gives written notice and a copy of such assignment to Lessor within 45 days after such assignment; *provided, further,* subject to the receipt of any necessary regulatory approvals, Lessee may so long as no Default or Event of Default shall have occurred and be continuing without the prior consent of Lessor, sublease any Item of Equipment to any Affiliate, railroad company or other Person for a period not to exceed one year in accordance with customary industry practice so long as such assignment or sublease does not cause the Items of Equipment to be 'tax-exempt use property' within the meaning of Section 168(h) of the Code and so long as such assignment or sublease does not extend beyond the end of the Lease Term. Any such sublease or assignment shall be subject to all the terms and conditions of this Lease and Lessee's obligations hereunder shall continue in full force and effect as the obligations of a principal and not of a surety irrespective of such sublease or assignment. Each sublease or assignment permitted by this paragraph shall be expressly subject and subordinate to all of the provisions of this Lease and to the rights and remedies of Lessor under this Lease in respect of the Items of Equipment covered by such sublease or assignment.

(b) Transfers by Lessor. Lessor may, with the consent of Lessee, which consent shall not be unreasonably withheld, assign this Lease (or grant a security interest in the Equipment in

connection therewith) to any lending institution or other Person, with a tangible net worth of at least \$25 million.

Upon written notice by Lessor to Lessee of any such sale or assignment, Lessee shall thereafter make payments of all Fixed Rent and other sums due hereunder to the party specified in such notice and such payments shall discharge the obligation of Lessee to Lessor hereunder to the extent of such payments. Lessee shall be under no obligation to any assignee of Lessor, except upon written notice of such assignment to Lessee. Upon any such sale or assignment under this Section 13(b), Lessee shall not be required to execute any documents in connection therewith other than a form of acknowledgment or any filings required by the ICC or AAR. Any expenses incurred in connection with any such sale or assignment shall be borne by Lessor. Lessee shall not be required to prepare any documents in connection with any such sale or assignment.

Section 14. Liens.

Assuming that the Lease has been filed with the ICC, Lessee represents and warrants to Lessor that at the time an Item of Equipment is accepted by it under the Lease, such Item will be free and clear of all Liens except Permitted Encumbrances described in clauses (i) and (iv) of the definition thereof. Lessee will not create, incur, assume or suffer to exist any Lien on or with respect to the Equipment or any part or Item thereof, Lessor's title thereto, or any interest therein, except Permitted Encumbrances. Lessee, at its own expense, will pay, satisfy and otherwise take such actions as may be necessary to keep the Equipment free and clear of, and to duly discharge or eliminate or bond in a manner satisfactory to Lessor, any such Lien other than Permitted Encumbrances if the same shall arise at any time during the Lease Term. Lessee will notify Lessor upon becoming aware of any tax or other Lien (other than any Lien excepted above) that shall attach to the Equipment or any Item of Equipment.

Section 15. Loss, Damage or Destruction.

(a) Risk of Loss, Damage or Destruction. Lessee hereby assumes all risk of loss, damage, theft, taking, destruction, confiscation or requisition, partial or complete, of or to each Item of Equipment, however caused or occasioned, such risk to be borne by Lessee with respect to each Item of Equipment from the Acceptance Date, and continuing until the expiration or early termination of the Lease Term. Lessee shall promptly notify Lessor of any loss or casualty damage (other than any such loss or damage which constitutes an Event of Loss) to any Item or Items of Equipment where such loss or damage is estimated to exceed the amount of self-insurance or deductible amount maintained by the Lessee pursuant to and in accordance with Section 16 hereof. Lessee shall, within 90 days of notifying Lessor of such loss or casualty damage, notify Lessor that Lessee intends to repair such Item or Items of Equipment and provide Lessor with an estimated cost and time frame with respect to such repairs.

(b) Payment of Stipulated Loss Value upon an Event of Loss. If an Event of Loss occurs with respect to an Item or Items of Equipment during the Lease Term, Lessee shall, within thirty (30) days after the occurrence of such Event of Loss, inform Lessor in regard thereto and Lessee shall, on the Rent Payment Date next following such notice, pay (i) the sum of (a) Stipulated Loss Value for such Item (computed as of such Rent Payment Date) plus (b) 50% of the excess, if any, of (I) the settlement amount for such Item determined in accordance with Rule 107 of the Field Manual of the Interchange Rules of the AAR (or any successor procedure for the settlement for cars destroyed in interchange service) over (II) Stipulated Loss Value for such Item, plus (ii) the Fixed Rent and any Supplemental Rent due for such Item or Items of Equipment on such Rent Payment Date, plus (iii) all accrued and unpaid Fixed Rent and any Supplemental Rent owing for such Item or Items of Equipment through any prior Rent Payment Date. So long as no Default or Event of Default has occurred and is continuing, any payments received by Lessor or by Lessee from any insurer or other party (except Lessee) as a result of the occurrence of such Event of Loss will be applied in reduction of Lessee's obligation to pay the amounts described in the foregoing clause (i), if not already paid by Lessee, or, if already paid by Lessee, will be applied to reimburse Lessee for its payment of such amount, and any such payments in excess of the amounts described in clause (i) (b) (I) of the first sentence of this Section 15(b) shall be paid to or retained by Lessor. Upon payment in full of the amounts described in the first sentence of this Section 15(b), (A) the obligation of Lessee to pay Fixed Rent hereunder with respect to such Item or Items of Equipment for all Rental Periods commencing after the date of the payment of such amounts shall terminate and the Lease Term of such Item or Items shall thereupon terminate, (B) Lessor shall execute a release with respect to such Item or Items of Equipment releasing such Equipment from the Lease and (C) Lessee shall, as agent for Lessor, as soon as practicable, dispose of such Item or Items of Equipment in a manner reasonably acceptable to Lessor.

(c) Application of Payments Not Relating to an Event of Loss. So long as no Default or Event of Default shall have occurred and be continuing, any payments (including, without limitation, insurance proceeds) received at any time by Lessor or Lessee from any governmental authority or other party with respect to any loss or damage to any Item or Items of Equipment not constituting an Event of Loss will be applied directly in payment of repairs or for replacement of property in accordance with the provisions of Sections 11, 12 and 16 hereof, if not already paid by Lessee, or if already paid by Lessee, shall be applied to reimburse Lessee for such payment, and any balance remaining after compliance with said Sections with respect to such loss or damage shall be retained by Lessor. Lessee's obligation to pay all installments of Rent and other sums shall continue for the duration of such requisitioning or taking unless and until the same shall become an Event of Loss.

Section 16. Insurance.

Lessee will cause to be carried and maintained with good and responsible insurance companies, at its sole expense, with respect to the Equipment, (a) physical damage insurance insuring against physical loss or damage to the Equipment, in an amount equal to the Stipulated Loss Value of the Equipment, and (b) insurance against liability for bodily injury, death and property damage resulting from the use, operation, ownership and possession of the Equipment in an amount not less than \$10,000,000 per occurrence.

Such insurance policies shall: (i) name and insure the Lessor as additional insured under the commercial public liability insurance, (ii) insure the Lessor, as sole loss payee under the property insurance, (iii) with respect to property insurance, provide insurer's waiver of its right of subrogation, set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability against any additional insured except for claims as shall arise from the willful misconduct or gross negligence of such additional insured, (iv) provide that such insurance as to the interest of the Lessor shall not be invalidated by any action or inaction of Lessee or any other Person (other than such claimant), regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or any other Person (other than such claimant), (v) provide that all such insurance is primary without right of contribution from any other insurance which might otherwise be maintained by the Lessor or any assignee under Section 13(b) and shall expressly provide that all provisions except the limits of liability, shall operate in the same manner as if there were a separate policy covering each such additional insured, (vi) with respect to the property insurance, provide therein or by endorsement that thirty (30) days prior written notice of expiration, cancellation or modification shall be given to the Lessor and shall provide that such cancellation, change or modification shall not be effective during such 30 day period as to the Lessor, (vii) with respect to the liability insurance, provide therein or by endorsement that the company providing coverage will endeavor to give thirty (30) days advance written notice to the Lessor should the policy be cancelled, assigned or materially changed, and (viii) provide that no additional insured shall have any obligation or liability for premiums in connection with such insurance.

Lessee shall furnish the Lessor with certificates or other satisfactory evidence of maintenance of the insurance so required and shall furnish binders or other formal confirmation reasonably acceptable to the Lessor evidencing renewals thereof as soon as practicable but in no event later than three (3) Business Days prior to such renewal and certificates of insurance within twenty (20) days after such renewal is effected or the expiration date of the original policy or policies, as the case may be. All other terms of insurance shall be in accordance with such insurance carried by Lessee with respect to other railcars in its fleet. Upon the execution and delivery of this Lease, certificates of the

insurance coverage required by this Section 16 shall be delivered by Lessee to Lessor. Lessee shall furnish written notice to the Lessor of any notice of cancellation, material modification, termination or lapse for non-payment of premiums with respect to any of the liability insurance provided pursuant to this Section 16 within 5 Business Days after the earlier of (i) the date on which Lessee receives such notice from the insurance company providing such insurance, and (ii) the date on which Lessee has actual knowledge of any such cancellation, material modification, termination or lapse for non-payment of premiums.

If the loss covered by said physical damage insurance is less than \$2,500,000, the proceeds of such insurance shall be payable to Lessee provided that no Default or Event of Default shall have occurred and be continuing and after the occurrence and continuance of a Default or an Event of Default. If such loss equals or exceeds \$2,500,000, the proceeds of such insurance shall be payable to Lessor provided that Lessor shall, so long as no Default or Event of Default has occurred or is continuing, remit all such insurance proceeds to Lessee at such time as Lessee either (i) provides Lessor evidence that the damage has been repaired and the Equipment has been restored to satisfactory working order and condition or (ii) has paid to Lessor the amounts otherwise due to Lessor on loss of such Equipment pursuant to Section 15(b) hereof. Lessee's obligation to maintain insurance with respect to any Item of Equipment shall commence on the Acceptance Date of such Item of Equipment and shall run until the earliest to occur of (x) the date on which such Item of Equipment is sold, pursuant to Section 19 hereof, (y) the termination of this Lease with respect to such Items of Equipment pursuant to and in accordance with Section 27 hereof, or (z) the return of the Equipment to the Lessor in accordance with Section 5 hereof. Lessee covenants that it will not use or operate or permit the use or operation of any Item of Equipment at any time when the insurance required by this Section 16 is not in force with respect to such Item of Equipment and will not use the Equipment in a manner which would violate the terms and provisions of such insurance policies. If Lessee shall fail to cause the insurance required under this Section 16 to be carried and maintained, Lessor may provide such insurance and Lessee shall reimburse Lessor upon demand for the cost thereof as Supplemental Rent hereunder. So long as no Event of Default has occurred and is continuing, Lessee may self-insure or maintain deductible provisions for the first \$2,500,000 of the coverages specified in clauses (a) and (b) of the first sentence of this Section 16, or, subject to the prior written consent of Lessor, not to be unreasonably withheld, in such greater amount if in accordance with general insurance standards prevalent in the utility industry.

Nothing in this Section 16 shall prohibit Lessor from obtaining insurance for its own account and any proceeds payable thereunder shall be as provided in the insurance policy relating thereto; provided that no such insurance may be obtained that would limit or otherwise adversely affect the coverage of any insurance to be obtained or maintained by Lessee pursuant to this Section 16.

Section 17. No Warranties.

LESSEE LEASES THE EQUIPMENT AS-IS, WHERE-IS WITH ALL FAULTS, AND IN WHATEVER CONDITION IT MAY BE. LESSOR, NOT BEING THE MANUFACTURER OR VENDOR OF THE EQUIPMENT, DOES NOT MAKE AND HAS NOT MADE OR BE DEEMED TO MAKE OR HAVE MADE, ANY REPRESENTATIONS OR WARRANTY, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, VALUE, DURABILITY, SUITABILITY OR ITS FITNESS FOR ANY PARTICULAR USE OR PURPOSE, LESSOR'S TITLE THERETO, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT, OR THE CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, AND LESSOR HEREBY DISCLAIMS ANY SUCH REPRESENTATION OR WARRANTY (WHICH DISCLAIMER LESSEE HEREBY ACKNOWLEDGES). WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LESSOR SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY DEFECTS, EITHER PATENT OR LATENT (WHETHER OR NOT DISCOVERABLE BY LESSEE), IN THE EQUIPMENT, OR FOR ANY INTERRUPTION IN LESSEE'S BUSINESS CAUSED BY LESSEE'S INABILITY TO USE THE EQUIPMENT FOR ANY REASON WHATSOEVER, ALL OF WHICH ITEMS OF EQUIPMENT WERE SELECTED BY LESSEE ON THE BASIS OF ITS OWN JUDGMENT WITHOUT RELIANCE UPON ANY STATEMENTS, REPRESENTATIONS OR WARRANTIES MADE BY LESSOR, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LESSOR ON THE ONE HAND AND LESSEE ON THE OTHER HAND, ARE TO BE BORNE BY LESSEE.

Lessor shall have no responsibility or liability to Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Item of Equipment or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. Lessee's delivery of a Lease Supplement relating to an Item of Equipment shall be conclusive evidence as between Lessee and Lessor that such Item of Equipment is in all respects satisfactory to Lessee, and Lessee will not assert any claim of any nature whatsoever against Lessor based on any of the foregoing matters.

So long as an Event of Default shall not have occurred and be continuing, and so long as the Equipment shall be subject to this Lease and Lessee shall be entitled to possession of the Equipment hereunder, Lessor authorizes Lessee, at Lessee's expense, to assert for Lessor's account, all rights and powers of Lessor under any manufacturer's, vendor's or dealer's warranty on the Equipment or any part thereof; provided, however, that Lessee shall indemnify, protect, save, defend and hold harmless Lessor from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by Lessor in connection therewith, as a result of, or incident to, any action by Lessee pursuant to the foregoing authorization, and that Lessee shall provide Lessor

with prior written notice of any action Lessee proposes to take on Lessor's behalf pursuant to the foregoing authorization. Any payments made by any such vendor or manufacturer pursuant to such warranty for any Item of Equipment shall be payable to Lessee so long as no Default or Event of Default shall have occurred and be continuing. Such payment is to be used to repair or replace damaged components in accordance with Section 11 hereof, if feasible, and if not used, such amount shall be paid promptly to Lessor.

Section 18. Events of Default.

Any of the following events shall constitute an Event of Default:

(a) Lessee shall fail to make any payment of Fixed Rent, Stipulated Loss Value or Termination Value within ten (10) Business Days after the same is due and payable or any Supplemental Rent (other than Stipulated Loss Value or Termination Value) within thirty (30) days after receipt of written notice by Lessee; or

(b) any representation or warranty made by Lessee herein or any certificate furnished in connection herewith or therewith shall prove to have been incorrect in any material respect when such was made and shall remain material and materially incorrect at the time in question, unless the fact, circumstance or condition that is the subject of such representation or warranty is made true within 30 days after notice thereof shall have been given to Lessee; or

(c) default in the performance of any covenant contained in the first two paragraphs of Section 16 hereof; or

(d) Lessee shall fail to perform or observe any other covenant, condition, or agreement to be performed or observed by it herein, or in any agreement or certificate furnished in connection herewith, and such failure shall continue unremedied for thirty (30) days after receipt of written notice by Lessee specifying such failure and demanding the same to be remedied; provided that, no such default shall be deemed an Event of Default if (i) such default is curable but cannot be cured within such thirty (30) day period, and (ii) Lessee is diligently pursuing such cure and effects such cure within 360 days of the date of such default or before the last day of the Lease Term, whichever shall occur first; or

(e) Lessee becomes insolvent (however such insolvency may be evidenced) or admits insolvency or bankruptcy or its inability to pay its debts as they mature, makes an assignment for the benefit of creditors or applies for or consents to the appointment of a custodian, trustee or receiver for Lessee, or for the major part of its property or commences a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect; or

(f) a proceeding shall have been instituted in a court having jurisdiction in the premises, seeking a decree or order (i) for relief in respect of Lessee in an involuntary case under any applicable bankruptcy, reorganization, insolvency or other similar law now or hereafter in effect or (ii) for the appointment of a custodian, receiver, trustee or similar official of Lessee or of its property, or (iii) for the winding up or liquidation of the affairs of Lessee, and either (I) any such proceeding shall remain undismissed or unstayed and in effect for a period of 60 consecutive days or (II) such court shall enter a decree or order granting the relief sought in such proceeding or Lessee shall consent to such entry.

Section 19. Remedies upon Default.

Upon the occurrence of any Event of Default, Lessor may exercise one or more of the following remedies as Lessor in its sole discretion shall elect:

(a) Lessor may terminate this Lease, without prejudice to any other remedies of Lessor hereunder, with respect to all or any Item of Equipment, and may enter the premises of Lessee to take immediate possession of the Equipment and remove all or any Item of Equipment by summary proceedings or otherwise, or may cause Lessee, at Lessee's expense, to surrender and deliver possession of the Equipment or such Item;

(b) Lessor may hold, keep idle or lease to others the Equipment or any Item of Equipment, as Lessor in its sole discretion may determine, free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto, except that Lessee's obligation to pay Fixed Rent payable after Lessee shall have been deprived of possession pursuant to this Section 19 shall be reduced by the net proceeds, if any, received by Lessor from leasing the Equipment or such Item to any Person other than Lessee after Lessee shall have been so deprived of possession;

(c) Lessor may sell any Item of Equipment at public or private sale as Lessor may determine, free and clear of any rights of Lessee, and Lessee shall pay to Lessor all unpaid Fixed Rent payable up to and including the date on which such sale occurs (computed on a daily equivalent basis for the period from and including the Rent Payment Date immediately preceding the date of such sale to and including the date of such sale), plus, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Fixed Rent for such Item sold payable after the date on which such sale occurs), an amount equal to the excess, if any, of (i) the Stipulated Loss Value of such Item so sold, computed as of the Rent Payment Date coincident with or immediately preceding the date of such sale, over (ii) the net proceeds of such sale;

(d) Lessor may proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof or to rescind this Lease; and

(e) Lessor may exercise any other right or remedy which may be available to it under applicable law.

No remedy referred to in this Section 19 is intended to be exclusive, but each shall be cumulative and may be exercised concurrently or consecutively and shall be in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity, and the exercise in whole or in part by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all such other remedies. 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 effective under applicable law. Lessee hereby waives any and all existing or future claims to any offset against the Rent payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by Lessee or on its behalf. Except as otherwise provided in this Lease, Lessee, to the full extent effective under applicable law, hereby waives all statutory or other legal requirements for any notice of any kind, any other requirements with respect to the enforcement of Lessor's rights under this Lease and any and all rights of redemption. No waiver by Lessor of any Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default.

In addition, the Lessee shall be liable for any and all unpaid Rent due hereunder before or during the exercise of any of the foregoing remedies, including during the appeal or enforcement of any judgment, and for all reasonable legal fees and other costs and expenses incurred by reason of the occurrence of any Default or Event of Default or the exercise of the Lessor's remedies with respect thereto, including without limitation, the repayment in full of any costs and expenses necessary to be expended in repairing or modifying any Item in order to cause it to be in compliance with all maintenance and regulatory standards imposed by this Lease.

Upon the date of termination of this Lease by Lessor pursuant to Section 19(a), Lessee shall, without expense to the Lessor, promptly redeliver the Items of Equipment or cause the Items of Equipment to be redelivered, to the Lessor with all reasonable dispatch, in the same manner and in the same condition as if such Items of Equipment were being redelivered on the last day of the Lease Term in accordance with the provisions of Section 5, and all obligations of the Lessee under Section 5(b) shall apply to such redelivery. Lessor, without further notice, may, but shall be under no obligation to, retake such Items of Equipment wherever found, without the Lessor incurring any liability by reason of such retaking, whether for the restoration of damage to property caused by such retaking or otherwise.

Without in any way limiting the obligation of Lessee under the foregoing provisions of this Section, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee with full power

and authority to, upon the occurrence and continuance of an Event of Default hereunder, exercise Lessor's rights under this Section, at any time while Lessee is obligated to deliver possession of any Item of Equipment to Lessor, to demand and take possession of such Item of Equipment in the name and on behalf of Lessee from whomever shall then be in possession of such Item.

Section 20. Lessor's Right to Perform for Lessee.

If Lessee fails to perform or comply with any of its agreements or covenants contained herein, Lessor may (but shall not be obligated to) itself, after notice to Lessee, perform or comply with such agreement or covenant or make advances to perform the same, and the amount of the reasonable expenses of Lessor incurred in connection with the performance of or compliance with such agreement or covenants, shall, if not paid by Lessee to Lessor on demand, be payable as Supplemental Rent hereunder.

Section 21. Late Charges.

Lessee shall pay to Lessor as Supplemental Rent, to the extent permitted by applicable law, interest on any amount of Fixed Rent and any Supplemental Rent which is not paid when due, for any period for which the same is overdue (without regard to any grace period) at a rate equal to the Late Rate.

Section 22. Covenant of Quiet Enjoyment.

During the Lease Term of any Item of Equipment hereunder and so long as no Default or Event of Default has occurred and is continuing, Lessor covenants and agrees that Lessee shall have the right to uninterrupted use and enjoyment of such Item on the terms and conditions provided herein without any interference from Lessor or those claiming through or against Lessor (other than claims of mechanics, suppliers, materialmen and laborers for work or services performed or materials furnished in connection with the Equipment or any Item thereof which are claims by or through the Lessor), including, but not limited to any assignee or lender or mortgagee of Lessor. For purposes of this Section 22, the delivery of notices of default or nonperformance delivered under and pursuant to Section 18 shall not be deemed to constitute a violation of this Section 22.

Section 23. Other Documents.

Except as otherwise provided herein, Lessee will, at Lessee's expense, execute and deliver to Lessor such other documents as may be reasonably required by Lessor, including, without limitation, such amendments to this Lease and any filings required by the ICC or the AAR.

Section 24. Notices and Requests.

Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be

in writing or by a telecommunications device capable of creating a written record, and any such notice shall become effective upon receipt by the addressee or, if such receipt is rejected, upon rejection, at its address set forth below or, in the case of any such party hereto, at such other address as such party may from time to time designate by written notice to the other parties hereto:

If to Lessee: Ohio Valley Electric Corporation  
c/o American Electric Power  
Service Corporation  
1 Riverside Plaza  
Columbus, OH 43215  
Attention: Vice President  
Fax No.: 614/223-1094  
Confirmation No.: 614/223-1090

If to Lessor: Pitney Bowes Credit Corporation  
201 Merritt Seven  
Norwalk, CT 06856-5151  
Attention: Vice President-Operations  
Fax No.: 203/845-5525  
Confirmation No.: 203/845-5512

Section 25. Lessee's Renewal and Purchase Options.

(a) Lessee's Renewal Option. If no Default or Event of Default shall have occurred and be continuing, and this Lease shall not have been earlier terminated, Lessee shall be entitled, at its option upon written notice to Lessor, as hereinafter provided, to renew this Lease in accordance with the following terms: the first, second and third Renewal Terms of any Item of Equipment shall each be for a period of five years and the Fixed Rent payable during such Renewal Term shall be at a rate equal to such Item of Equipment's Fair Market Rental Value.

Except as stated above, all of the provisions of this Lease shall be applicable during each Renewal Term for each Item of Equipment. Stipulated Loss Values and Termination Values for each Item of Equipment on any Rent Payment Date during any Renewal Term shall be an amount equal to Stipulated Loss Value or the Termination Value, as the case may be, for such Item of Equipment determined as of the last Rent Payment Date of the Basic Term. If Lessee intends to exercise said renewal option with respect to any of said Renewal Terms, Lessee shall give written notice to Lessor to such effect at least one hundred and eighty (180) days prior to the expiration of the Basic Term or Renewal Term of such Item(s) of Equipment, provided, however, that the Lessee may withdraw its election to renew the lease of any Item(s) of Equipment at any time before the 90th day prior to the expiration of the Basic Term or Renewal Term of such Item(s) of Equipment.

(b) Lessee's Purchase Option. If (i) no Default or Event of Default shall have occurred and be continuing, and

(ii) this Lease shall not have been earlier terminated, Lessee shall be entitled, at its option upon expiration of the Basic Term but not prior thereto, upon written notice to Lessor as hereinafter provided, to purchase any of the Items of Equipment then subject to this Lease for an amount, with respect to each such Item of Equipment, payable in immediately available funds, equal to 65% of the Purchase Price of such Item(s) of Equipment, plus any applicable sales, excise or other taxes imposed as a result of such sale (other than gross or net income taxes attributable to such sale). In addition, Lessee shall have the option to purchase at the end of any Renewal Term any Item(s) of Equipment still under lease for 65% of the Purchase Price of such Item(s) of Equipment.

If Lessee intends to exercise said purchase options, Lessee shall purchase a minimum of 10 railcars and shall give written notice to Lessor to such effect at least one hundred and eighty (180) days prior to the expiration of the Basic Term or Renewal Term of such Item(s) of Equipment, provided, however, that the Lessee may withdraw its election to purchase such Item(s) at any time before the 90th day prior to the expiration of the Basic Term or Renewal Term of such Item(s) of Equipment. In the event that Lessee exercises its purchase options under this Section 25(b), Lessor shall execute and deliver to Lessee a bill of sale, in which Lessor transfers the Item to Lessee "as is" and represents only that it is transferring whatever title was transferred to it, free and clear of all liens in favor of any person claiming by, through or under Lessor, in a form reasonably acceptable to Lessee, upon payment of the sale price by Lessee.

(c) Determination of Fair Market Rental Value; Appraisal Procedure. If Lessee has elected to exercise its renewal option, as provided in Section 25(a) hereof, then as soon as practicable following Lessor's receipt of the written notice from Lessee of Lessee's intent to exercise such option with respect to any Item(s) of Equipment, Lessor and Lessee shall consult for the purpose of determining the Fair Market Rental Value of each such Item of Equipment as of the end of the Basic Term thereof, or, if this Lease has been renewed pursuant to Section 25(a) hereof, then as of the end of the then current Renewal Term thereof, and any values agreed upon in writing shall constitute such Fair Market Rental Value of each such Item of Equipment for the purposes of this Section 25. If Lessor and Lessee fail to agree upon such values one hundred and fifty (150) days prior to the expiration of the Basic Term, or, if this Lease has been so renewed, the then current Renewal Term, of such Item(s) of Equipment, either party may request, by written notice to the other, that such values be determined by the appraisal procedure hereinafter specified.

In the event Lessor and Lessee fail to agree upon such Fair Market Rental Value of any Item(s) of Equipment, and either Lessor or Lessee shall have requested a determination of such values, Lessor and Lessee shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 5 Business Days after such notice is given, each party shall appoint an independent

appraiser within 10 Business Days after such notice is given, and the two appraisers so appointed shall within 15 Business Days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 15 Business Days after such notice is given, either party may request the American Arbitration Association to make such appointment, and both parties shall be bound by any such appointment.

Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental Value of such Item(s) of Equipment within 30 days after the appointment of such appraiser(s). Lessor and Lessee agree that the purpose of the above-described procedure is to identify the Fair Market Rental Value of such Item(s) of Equipment within 90 days of the original notice so as to permit Lessee sufficient time to withdraw its election to renew or purchase. If the parties shall have appointed a single appraiser, its determination of such values shall be final. If three appraisers shall be appointed, the values determined by the three appraisers shall be averaged, and, unless such average shall equal the values, determined by the middle appraisal (in which event such average shall be final), the determination which differs most from such average shall be excluded, the remaining two determinations shall be averaged and such average shall be final. The fees and expenses of any appraiser appointed under this Section 25(c) shall be paid for as follows (i) if Lessee fails to exercise its renewal or purchase option with respect to any Item of Equipment included in the appraisal procedure, the appraisal fees and expenses incurred in connection with such Item of Equipment shall be paid by Lessee and (ii) if Lessee exercises its renewal or purchase option with respect to all Items of Equipment included in the appraisal procedure the appraisal fees and expenses incurred shall be shared equally by Lessor and Lessee. The above-described procedure shall be from time to time referred to as the "Appraisal Procedure".

Section 26. Financial Information Reports.

(a) Lessee agrees to furnish Lessor (1) within 180 days after the close of its fiscal year, an annual report of Lessee, consisting of its audited financial statements including balance sheets as of the end of such fiscal year, statements of income and cash flows for the year then ended with all notes thereto in each case certified as true and correct by the auditor thereof; (2) within 90 days after the close of each of the first three quarterly periods of Lessee's fiscal year, a balance sheet of Lessee as of the end of such quarter, and comparative statements of income for such quarter; (3) promptly upon Lessee's obtaining knowledge that there has occurred and is continuing any condition, event, act or omission which constitutes a Default or an Event of Default or a Lien (other than Permitted Encumbrances) on the Equipment, notice of such condition, event, act or omission and the steps which Lessee has taken or is taking to remedy the same; and (4) such additional information concerning the location, condition, use and operation of the Equipment and financial condition and

operations of Lessee as Lessor may from time to time reasonably request.

(b) Lessee shall permit any person designated by Lessor to visit and inspect the Equipment and the records (and to make copies thereof) maintained in connection therewith, all at such reasonable times as Lessor may reasonably request.

Section 27. Voluntary Termination for Obsolescence.

So long as no Default or Event of Default shall have occurred and be continuing hereunder, Lessee shall have the right at its option after December 30, 1999 on at least ninety (90) days' prior written notice to Lessor, to terminate this Lease with respect to any Item of Equipment then leased hereunder if, in Lessee's good faith opinion as evidenced by a certificate of the President, any Vice President or the Chairman of the Board of the Lessee, such Items shall have become no longer useful in, or surplus to, Lessee in its business, such termination to be effective on the Rent Payment Date specified in such notice (for purposes of this Section 27, called the "termination date"), upon payment to Lessor of the sum of (i) the installment of Fixed Rent due on such termination date, (ii) any other Rent or other sums due and owing on or in respect of the Equipment, and (iii) an amount equal to the Termination Value of such Equipment as of the termination date. If Lessee shall fail to pay all amounts due under and pursuant to this Section 27, this Lease shall continue in full force and effect and it shall be deemed that Lessee has rescinded its notice of termination. During the period from the giving of such notice until the termination date, Lessee, as non-exclusive agent for Lessor, shall use its reasonable efforts to secure the highest obtainable bids for the purchase of such Items and in the event it receives any bid during such period, Lessee shall promptly certify to Lessor in writing the amount and terms of such bid and the name and address of the party submitting such bid. Lessor may obtain bids, but shall be under no duty to solicit bids, inquire into the efforts of Lessee to obtain bids or otherwise take any action in connection with arranging such sale. Neither Lessee nor any person, firm or corporation, affiliated with Lessee, may purchase any such Item(s) of Equipment.

Upon payment by the Lessee of all sums required to be paid pursuant to this Section 27, Lessor shall sell the Equipment for cash to the highest bidder certified by Lessee or obtained by Lessor and the net proceeds realized at such sale (after deduction of all reasonable out-of-pocket costs incurred by the Lessor) in an amount up to the sum of the amounts specified in clause (iii) of the first sentence of the first paragraph of this Section 27 shall be retained by Lessee and any proceeds in excess of such amounts specified in such clauses shall be retained by Lessor. On the termination date, upon payment in full of the sums required by this Section 27, Lessee shall request Lessor, without recourse or warranty, simultaneously therewith to sell such Item(s) on an 'as-is', 'where-is' basis for cash to such bidder. Upon payment of

the sums required by this Section 27, this Lease shall terminate with respect to the Equipment.

Section 28. Miscellaneous.

Each party agrees that the other party shall not by act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder unless such waiver is given in writing. A waiver on one occasion shall not be construed to be a waiver on any other occasion. The captions in this Lease are for convenience of reference only and shall not be deemed to affect the meaning or construction of any of the provisions hereof. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating or diminishing Lessor's or Lessee's rights under 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. No term or provision of this Lease may be amended, altered, waived, discharged or terminated orally, but may be amended, altered, waived, discharged or terminated only by an instrument in writing signed by a duly authorized officer of the party against which the enforcement of the amendment, alteration, waiver, discharge or termination is sought. All of the covenants, conditions and obligations contained in this Lease shall be binding upon and shall inure to the benefit of the respective successors and assigns of Lessor and Lessee. This Lease, each Lease Supplement and each related instrument, document, agreement and certificate, collectively constitute the entire agreement of Lessor and Lessee with respect to the acquisition and leasing of the Equipment, and cancel and supersede any and all prior oral or written understandings with respect thereto. This Lease shall in all respects be governed by, and construed in accordance with, the laws of the State of Ohio, including all matters of construction, validity and performance.

Section 29. Third-Party Beneficiaries.

Nothing in this Lease shall be deemed to create any right in any person not a party hereto and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

Section 30. Execution.

This Lease may be executed in any number of counterparts and by the different parties hereto on separate counterparts (or upon separate signature pages bound together into one or more counterparts), each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. To the extent, if any, that this Lease or any Lease Supplement constitutes chattel paper or other collateral within the meaning of the Uniform Commercial Code (or other law respecting security interests) as in effect in any applicable jurisdiction, no security interest in Lessor's interest

under this Lease or any such Lease Supplement may be created through the transfer or possession of any counterpart of this Lease or such Supplement other than the original executed Counterpart No. 1 hereof or thereof which shall be identified on the cover, the receipt of which is acknowledged by the Lessor.

Section 31. General Representations and Warranties. Lessee hereby represents and warrants as follows:

(a) Organization and Qualifications. Lessee is a corporation duly organized and existing in good standing under the laws of the State of its incorporation and is duly qualified to do business and is in good standing in each State where the character of its properties or the nature of its activities makes such qualification necessary.

(b) Corporate Power. Lessee has full corporate power, authority and legal right to execute, deliver and perform this Lease and the execution, delivery and performance hereof has been duly authorized by all necessary corporate action of Lessee.

(c) Enforceability. This Lease has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms.

(d) Financial Statements. The financial statements of the Lessee heretofore furnished to Lessor are complete and correct and fairly present the financial condition of Lessee and the results of its operations for the respective periods covered thereby; there are no known contingent liabilities of a material nature or liabilities for taxes of Lessee which are not reflected in said financial statements and since December 31, 1993, there has been no material adverse change in such financial condition, business or operation of Lessee which would affect the ability of Lessee to perform its obligations under the Lease.

(e) Actions Pending. There is no action, suit, investigation or proceeding pending or, to the knowledge of Lessee, threatened against Lessee, or any properties or rights of Lessee before any court, arbitrator or administrative or governmental body which if determined adversely to Lessee would materially and adversely affect the ability of Lessee to perform its obligations under this Lease.

(f) Title to Properties. Lessee has good and marketable title to its real properties other than properties which it leases (other than properties and assets disposed of in the ordinary course of business) subject to no lien of any kind.

(g) Taxes. Lessee has filed all Federal, state and other income tax returns which, to the best knowledge of the officers of Lessee, are required to be filed, and has paid all taxes as shown on said returns and on all assessments received by it to the extent that such taxes have become due and are not otherwise being contested by Lessee in good faith.

(h) Conflicting Agreements and Other Matters. Lessee is not a party to any contract or agreement or subject to any charter or other corporate restriction which materially and adversely affects its business, property or assets, or financial condition, and which would affect the ability of Lessee to perform under this Lease. Neither the execution nor delivery of this Lease, nor fulfillment of nor compliance with the terms and provisions hereof will conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in any violation of, or result in the creation of any lien upon any of the properties or assets of Lessee pursuant to, the charter or by-laws of Lessee, any award of any arbitrator or any agreement (including any agreement with stockholders), instrument, order, judgment, decree, statute, law, rule or regulation to which Lessee is subject.

(i) Governmental Consent. Neither the nature of Lessee nor its business or properties nor any relationship between Lessee and any other person, nor any circumstance in connection with this Lease is such as to require any consent, approval or other action by or any notice to or filing with any court or administrative or governmental body in connection with the execution and delivery of this Lease or fulfillment of compliance with the terms and provisions hereof and thereof, except for consents, approvals or other actions which have been previously obtained.

Section 32. General Indemnity. Lessee agrees to indemnify and hold harmless Lessor, and its respective directors, officers and employees, successors and assigns, and all companies, persons or firms controlling, controlled by or under common control with any of them, against any and all claims, demands and liabilities of whatsoever nature and all costs and expenses (including but not limited to reasonable attorneys' fees) directly or indirectly relating to or in any way arising out of:

(a) the ordering, delivery, acquisition, title on acquisition, rejection, installation, possession, titling, retitling, registration, reregistration, custody by Lessee of title and registration documents, use, non-use, misuse, operation, transportation, inspection, repair, control or disposition of Equipment leased or to be leased hereunder, except to the extent that such costs are included in the Purchase Price of such Equipment and except for any general administrative expenses of Lessor;

(b) all costs, charges, damages or expenses for royalties and claims and expenses of litigation (including but not limited to reasonable attorneys' fees) arising out of or necessitated by the assertion of any claim or demand based upon any infringement or alleged infringement of any patent or other right, by or in respect of any Equipment, *provided, however,* that Lessor will make available to Lessee Lessor's rights under any similar indemnification from the manufacturer of Equipment;

(c) any violation, or alleged violation, of this Lease by Lessee or any laws, rules, regulations, orders, writs, injunctions, decrees, consents, approvals, exemptions, authorizations, licenses and withholdings of objection, of any governmental or public body or authority and all other requirements having the force of law applicable at any time to Equipment or any action or transaction by Lessee with respect thereto or pursuant to this Lease;

provided, however, that Lessee shall not be required to indemnify Lessor against:

(i) liabilities imposed on Lessor solely as a result of the willful misconduct or gross negligence of Lessor;

(ii) liabilities which are imposed for any period occurring after the termination of this Lease and the disposition of the Equipment pursuant to the terms of this Lease and which do not relate in any way to any acts, omissions, events or occurrences which occurred prior to such termination;

(iii) liabilities which result solely from any lien, charge or encumbrance created by Lessor or in favor of any person claiming solely by or through Lessor in connection with transactions unrelated to this Lease;

(iv) liabilities resulting solely from an assignment by Lessor pursuant to Section 13(b) of this Lease or other voluntary transfer of any Equipment by Lessor (other than a transfer following the occurrence and during the continuance of an Event of Default hereunder); and

(v) liabilities which result solely from the violation by Lessor of any banking, insurance or securities law, rule or regulation applicable to its business generally.

Lessee shall forthwith upon demand reimburse Lessor on an After-Tax Basis for any sum or sums expended with respect to any of the foregoing, or shall pay such amounts directly upon request from Lessor. To the extent that Lessee in fact indemnifies Lessor under the indemnity provisions of this Lease, Lessee shall be subrogated to Lessor's right in the affected transaction and shall have a right to determine the settlement of claims therein. The foregoing indemnity shall not be affected by any termination of this Lease as a whole or in respect to any Item of Equipment leased hereunder.

Section 33. Taxes.

(a) Taxes. All payments by Lessee to Lessor shall be free of withholdings of any nature whatsoever (and at any time that Lessee is required to make any payment upon which any withholding will be required, Lessee shall pay such amount on an After-Tax Basis), Lessee agrees to pay punctually as and when the same shall

become due and payable, and to indemnify and hold Lessor harmless on an After-Tax Basis from, all license and registration fees and all taxes, levies, assessments, imposts, duties, charges or withholdings of any nature whatsoever imposed by any domestic, foreign or international taxing authority, together with any penalties, fines, additions to tax or interest thereon (collectively, "taxes, fees or other charges") however imposed, whether imposed against Lessor, Lessee, the Rent or other amounts payable pursuant to the Lease or the Equipment or any part thereof, by any Federal, state or local government or taxing authority in the United States or, if any Equipment is located, operated, used, registered, leased or subleased in a foreign jurisdiction, by the taxing authority in such foreign jurisdiction, upon or with respect to the Equipment or any part thereof, or upon the manufacture, financing, servicing, maintenance, warranty, repair, replacement, insuring, improvement, transfer of title, purchase, erection, installation, testing, acceptance or rejection, ownership, registration, delivery, non-delivery, lease, sublease, transportation, storage, possession, location, use, operation, condition, sale, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom or with respect to the Lease or with respect to any contract relating to the manufacture, construction, acquisition or delivery of the Equipment or otherwise with respect to the transactions contemplated by the Lease. It is the intention of the parties hereto that the Lessor and all amounts payable to Lessor, whether as Rent or otherwise, shall be free from all such taxes, fees or other charges; provided, however, that this Section 33(a) shall not be deemed to obligate Lessee to pay:

(i) taxes, fees or other charges imposed on Lessor to the extent imposed for any period, or with respect to any act, occurring after (but not simultaneous with) the latest of termination of the Lease and the return of the Equipment to Lessor other than any taxes, fees or other charges or which are attributable to acts or events occurring prior to such termination or which relate to payments of Rent made by Lessee subsequent to such termination;

(ii) taxes, fees or other charges imposed by any Federal, state or local governing or taxing authority in the United States on Lessor based on or measured by net income of Lessor (including, without limitation, minimum taxes, withholding taxes or taxes on tax preference items; but excluding taxes in the nature of sales, use, rental property or license taxes);

(iii) taxes, fees or other charges in the nature of capital stock taxes or franchise taxes imposed by the United States or a political subdivision thereof;

(iv) taxes, fees or other charges imposed because of the failure of Lessor to claim or to follow the proper procedure in claiming a tax benefit in a timely and proper manner unless (x) the claiming of such tax benefit would be

inconsistent with a Final Determination with respect to which Lessee is required to indemnify Lessor (unless there has been a change in the facts or law underlying such Final Determination and Lessee shall have furnished to Lessor an opinion of independent tax counsel selected by Lessee and reasonably acceptable to Lessor to the effect that, as a consequence of such changes in fact or law, it is more likely than not that Lessor would prevail in claiming such tax benefit), or (y) Lessor shall, prior to such failure, have furnished Lessee with a written opinion of independent tax counsel selected by Lessor and reasonably acceptable to Lessee to the effect that Lessor does not have a Reasonable Basis for claiming such tax benefit; or

(v) taxes, fees or other charges with respect to which (i) no written claim has been made by the applicable tax authority and (ii) there is no audit or other proceeding in which a claim has been made by such tax authority in respect of any Unit, unless Lessor has notified Lessee in writing at least 30 days (or such lesser time as may be reasonable because of any law or regulation) prior to the payment of such taxes, fees or other charges.

(b) Contests. If a written claim is made against Lessor for any such taxes, fees or other charges with respect to which Lessee is liable for payment or indemnity hereunder, then, if so requested in writing by Lessee, Lessor shall permit the same to be brought by Lessee in Lessee's name and shall provide the Lessee at the Lessee's sole expense all available documentation which the Lessee and Lessor reasonably agree is necessary or appropriate to prosecute such contest or, if requested by Lessee or such contest in the name of Lessee is not permitted, at the sole expense of Lessee, Lessor shall contest, the validity, applicability or amount thereof in good faith and by such appropriate proceedings as may be elected by Lessor including by, at the sole discretion of Lessor after consulting in good faith with Lessee (A) resisting payment of the tax, fee or other charge, (B) not paying the same except under protest, if protest is necessary and proper or (C) if payment is made, using reasonable efforts to obtain a refund in appropriate administrative or judicial proceedings. Notwithstanding anything contained in this paragraph to the contrary, Lessor may not settle any such contest without Lessee's consent unless Lessor waives its rights to indemnification for the tax, fee or other charge subject to such contest.

If any written claim (or any oral notification identifying a specific proposed adjustment or assessment which is likely to be the subject of a written claim) is made or any proceeding is commenced against Lessor for any taxes, fees or other charges as to which Lessee has an indemnity obligation pursuant to Section 33(a), Lessor shall promptly notify Lessee of any such claim or proceeding.

Notwithstanding anything to the contrary herein, in no event shall Lessor be required or Lessee permitted to contest the

imposition of any taxes, fees or other charges for which Lessee is obligated pursuant to this Section 33 if Lessor waives its rights to indemnification for the tax, fee or other charge that would be contested or unless (i) Lessor shall have received from Lessee an indemnity reasonably satisfactory to it whereby Lessee shall agree to pay, and shall pay, any and all expenses associated with such contest (including, without limitation, indemnification for all costs, expenses, losses, legal and accounting fees and disbursements, penalties and interest); (ii) no Default or Event of Default under the Lease shall have occurred and be continuing; (iii) Lessor shall have determined that the action to be taken will not result in any danger of sale, forfeiture or loss of the Equipment or any interest therein (except if Lessee shall have adequately bonded such lien or otherwise made provision to protect the interests of Lessor and Lessee in a manner satisfactory to Lessor) or result in the risk of any criminal penalties; (iv) Lessee shall have delivered to Lessor a written acknowledgement of Lessee's obligation to indemnify fully Lessor for the taxes, fees or other charges pursuant to this Section 33 to the extent that a contest is not successful; (v) the amount of the taxes, fees or other charges which are the subject of such contest are at least \$25,000 (provided that, for this purpose, any proposed tax, fee or charge that relates to an issue that could affect more than one taxable year in respect of which Lessee would be obligated to make an indemnity payment hereunder shall be treated as involving the total potential undiscounted payments, taking into account all taxable years to which the proposed adjustment could relate); and (vi) Lessee shall have delivered to Lessor, at Lessee's sole expense, an opinion of independent tax counsel selected by Lessee and reasonably acceptable to Lessor to the effect that a Reasonable Basis for such contest exists. If any such contest involves payment of the taxes, fees or other charges in question, Lessee shall either make such payment directly to the appropriate authority or furnish to Lessor sufficient funds on an After-Tax Basis to make such payment.

If Lessor shall receive a refund of taxes, fees or other charges fairly attributable to any amount paid by Lessee pursuant to this Section 33, Lessor shall promptly pay to Lessee the amount of such refund net of expenses not already paid or reimbursed by Lessee; *provided, however*, that such amount shall in no event be payable before such time as Lessee shall have made all payments and indemnities then due under the Lease to Lessor; *provided further*, however, that the aggregate amount of all payments pursuant to this sentence by Lessor with respect to any tax, fee or other charge shall not exceed the aggregate amount of all payments made by Lessee pursuant to this Section 33(b) with respect to such tax, fee or other charge. If in addition to such refund Lessor shall receive an amount representing interest on the amount of such refund, Lessee shall promptly be paid that portion of such interest that is fairly attributable to any tax, fee or other charge paid or reimbursed by Lessee prior to the receipt of such refund and not previously paid to Lessee pursuant to the preceding sentence.

(c) Payment. Lessee shall pay any taxes, fees or other charges for which it is liable pursuant to this Section 33 directly to the appropriate taxing authority, or upon demand to Lessor, within 20 Business Days of such demand, but in no event more than 5 Business Days prior to the date such tax, fee or other charge is due, in immediately available funds. Any payment which Lessee shall be required to make to or for the account of Lessor with respect to any taxes, fees or other charges subject to indemnification under this Section 33 shall be paid on an After-Tax Basis. If Lessor currently and actually realizes and recognizes any permanent tax benefit by reason of such payment or indemnity, Lessor shall pay to Lessee an amount equal to the sum of such tax benefit plus any tax benefit realized as the result of any payment made pursuant to this proviso, when, as, if and to the extent actually realized; provided that in computing any permanent tax benefit Lessor shall be deemed to have first utilized all deductions and credits available to it otherwise than by reason of any such payment or indemnity by Lessee; provided further that the amount payable by Lessor pursuant to this sentence with respect to any permanent tax benefit described above shall not exceed the amount of the payment by Lessee to Lessor pursuant to this Section 33 giving rise to such tax benefit; provided further that, if at the time such payment shall be due to Lessee, a Default or an Event of Default under the Lease shall have occurred and be continuing, such amount shall not be payable until such Default or Event of Default shall have been cured.

In Witness Whereof, Lessor and Lessee have caused this instrument to be executed, all as of the day and year first above written.

PITNEY BOWES CREDIT CORPORATION  
**LESSOR**

By: Michael J. Leyh  
Its:

MICHAEL J. LEYH  
Vice President  
Credit/Operations

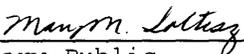
OHIO VALLEY ELECTRIC CORPORATION  
**LESSEE**

By: [Signature]  
Its: Vice President

State of Ohio            )  
                                  ) SS.:  
County of Franklin    )

On this, the 9th day of November, 1994, before me, a Notary Public in and for said County and State, personally appeared G. P. Maloney, the Vice President of Ohio Valley Electric Corporation, who acknowledged himself to be a duly authorized officer of Ohio Valley Electric Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

In Witness Whereof, I have hereunto set my hand and official seal on the date above mentioned.

  
\_\_\_\_\_  
Notary Public  
MARY M. SOLTESZ  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES JULY 12, 1999

State of Connecticut    )  
                                  ) SS.:  
County of Fairfield    )

On this, the 11<sup>th</sup> day of November, 1994, before me, a Notary Public in and for said County and State, personally appeared Michael S. Lynch, the Vice President of Pitney Bowes Credit Corporation, who acknowledged himself to be a duly authorized officer of Pitney Bowes Credit Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

In Witness Whereof, I have hereunto set my hand and official seal on the date above mentioned.

  
\_\_\_\_\_  
Notary Public  
RITA CONLIN  
NOTARY PUBLIC  
MY COMMISSION EXPIRES OCT. 31, 1999

**DEFINITIONS**

"AAR" shall mean the Association of American Railroads or any successor thereto.

"Acceptance Date" for each Item of Equipment means the date on which Lessee has accepted such Item for lease under the Lease, as evidenced by Lessee's execution and delivery of a Lease Supplement for such Item dated such date.

"Acquisition Agreements" shall mean the assignment dated as of the Closing Date from the Lessee to the Lessor.

"Affiliate" shall mean any person, firm or corporation who or which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, another person, firm or corporation. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, firm, or corporation, whether through the ownership of voting securities, by contract or otherwise.

"After-Tax Basis" means on a basis such that any payment to be received or deemed to be received shall be supplemented by a further payment so that the sum of the two payments, after deducting from such payments the amount of all taxes resulting from receipt or accrual of such payments (net of any current credits or deductions or other tax benefits arising therefrom, to the extent actually realized), assuming that the Person receiving such payments is subject to taxes at the highest marginal rate applicable to corporations such as the Lessor, shall be equal to the payments to be received or deemed to have been received.

"Appraisal Procedure" shall have the meaning specified in Section 25(c) of the Lease.

"Bankruptcy Code" shall mean the Federal Bankruptcy Code as amended from time to time, 11 U.S.C. § 101 et seq.

"Basic Term" shall have the meaning specified in Section 4 of the Lease.

"Basic Term Commencement Date" shall have the meaning specified in Section 4 of the Lease.

"Business Day" shall mean any day other than a Saturday, Sunday or other day on which banking institutions in the state of Georgia or New York are authorized or required to be closed.

"Closing Dates" shall mean the date Lessor pays for any Item of Equipment.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and any successor code.

"Default" shall mean any event which would constitute an Event of Default under the Lease if any requirement in connection therewith for the giving of notice or the lapse of time, or both, had been satisfied.

"Equipment" shall mean collectively those items and "Item" or "Item of Equipment" shall mean individually each item of railroad rolling stock described in the Lease Supplement delivered on each Closing Date, together with any and all accessions, additions, improvements and replacements from time to time incorporated or installed on any item thereof which are the property of the Lessor pursuant to the terms of the Lease.

"Equipment Lease" - See "Lease."

"Event of Loss" with respect to any Item of Equipment shall mean (i) the loss of such Item of Equipment or any substantial part thereof or of the use thereof due to theft or disappearance for a period in excess of 180 days during the Lease Term, or existing at the expiration or earlier termination of the Lease Term, (ii) the destruction, damage beyond repair, or rendition of such Item of Equipment or any substantial part thereof permanently unfit for normal use for any reason whatsoever, (iii) the condemnation, confiscation, seizure, or requisition of use by any governmental authority under the power of eminent domain or otherwise for a period in excess of 180 days during the Lease Term, or existing at the expiration or earlier termination of the Lease Term, or (iv) the requisition of title to such item of Equipment or any substantial part thereof by any governmental authority under the power of eminent domain or otherwise.

"Fair Market Rental Value" shall be determined on the basis of, and shall equal in value, the amount which would be obtained in an arm's length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease, and in such determination, costs of removal from the location of current use shall not be a deduction from such value. Any such determination made (i) under Section 11 or 19 of the Lease shall be made on the assumption that the Equipment is leased on an "as-is, where-is" basis, and (ii) at any other time shall be made on the assumption that the Equipment is in the condition and state of repair required by the terms and provisions of the Lease.

"Final Determination", with respect to a Loss, shall have the meaning specified in Section 8 of the Tax Indemnification Agreement.

"Fixed Rent" shall mean all rent payable pursuant to Section 6(b) of the Lease for the Basic Term and all Rent payable pursuant to Section 25(a) of the Lease for the Renewal Term, if any.

"Guidelines" shall mean the guidelines set forth in Revenue Procedure 75-21, 1975-1 C.B. 715, as further set forth in Revenue Procedure 75-28, 1975-1 C.B. 752, and as modified in Revenue Procedure 76-30, 1976-2 C.B. 647 and Revenue Procedure 79-48, 1979-2 C.B. 529 that are applied by the Internal Revenue Service in determining, for advance ruling purposes, whether leveraged lease transactions (other than transactions which are treated as leases pursuant to Section 168(f)(8) of the Code) are leases for Federal income tax purposes.

"ICC" means the Interstate Commerce Commission or any successor thereto.

"Independent Tax Counsel" means independent tax counsel selected by Lessor and reasonably acceptable to Lessee.

"Interchange Rules" shall have the meaning specified in Section 10 of the lease.

"IRS" shall mean the Internal Revenue Service or any successor agency.

"Late Rate" shall mean interest at the annual rate equal to the prime rate as announced from time to time by Citibank, N.A. as its prime rate plus one percent (1%).

"Lease" or "Equipment Lease" shall mean the Railcar Lease dated as of November 1, 1994 between the Lessor, as lessor, and the Lessee, as lessee, as amended or supplemented from time to time.

"Lease Supplement" shall mean each Lease Supplement, substantially in the form of Exhibit B to the Lease, entered into between the Lessor and the Lessee pursuant to Section 3 of the Lease on each Closing Date, and shall include any supplement, amendment or restatement thereof. Each Lease Supplement shall contain a description of the Equipment to be delivered on such Closing Date, shall confirm that the Equipment has been accepted by the Lessee and shall set forth a summary of the Purchase Price of the Equipment. Each reference to "the Lease" shall include the Lease and the Lease Supplements.

"Lease Term" shall mean the Basic Term and each Renewal Term.

"Lessee" shall mean Ohio Valley Electric Corporation, an Ohio corporation, and any corporation which succeeds thereto by merger or consolidation.

"Lessor's Liens" shall mean Liens arising as a result of (i) claims against Lessor unrelated to the Lease, (ii) acts of Lessor, (iii) taxes, fees or other charges imposed against Lessor, which are not indemnified against by Lessee pursuant to the Lease other than Liens which are not due and payable or the amount or validity of which are being contested in good faith by appropriate legal proceedings which will not result in the forfeiture or sale of the Equipment or materially and adversely affect Lessor's title thereto or (iv) claims against Lessor arising out of the voluntary transfer by Lessor of its interest in the Equipment other than a transfer of the Equipment pursuant to Sections 15, 25 or 27 and other than a transfer made while an Event of Default under the Lease has occurred and is continuing.

"Lien" shall mean any mortgage, pledge, security interest, lien, encumbrance or other charge of any kind on property.

"Loss" shall have the meaning given in Section 6 of the Tax Indemnification Agreement.

"Net Economic Return" shall mean Lessor's expected net after-tax yield and net after-tax cash flow resulting from the transactions described in and contemplated by the Lease, based on the Interim Rent and Fixed Rent during the Interim Term and Basic Term originally set forth on Annex 2 to the Lease and based on the assumptions set forth in Section 2 of the Tax Indemnification Agreement. Net Economic Return shall not mean or include Lessor's return on equity or return on assets.

"Permitted Contest" shall mean a good-faith contest (conducted in a manner so as to prevent the imposition of any criminal penalty on, or adverse effect on the title, property or right of, Lessor), of the legality or validity of any of the taxes, assessments, levies, fees or other governmental charges, or other claims, Liens or impositions which, under the terms of the Lease, are required to be paid or discharged by the Lessee or the Lessor, as the case may be, but for such contest.

"Permitted Encumbrances" with respect to the Equipment and each Item thereof, shall mean (i) the interest of the Lessee and the Lessor, respectively, under the Lease; (ii) any Liens thereon for taxes, assessments, levies, fees and other governmental and similar charges not due and payable or the amount or validity of which is being contested by a Permitted Contest; (iii) any Liens of mechanics, suppliers, materialmen and laborers for work or services performed or materials furnished in connection with the Equipment or any Item thereof which are not more than 30 days past due or the amount or validity of which is being contested by Permitted

Contest; and (iv) the rights of any sublessee or assignee pursuant to Section 13 of the Lease in respect of the Equipment.

"Person" shall mean an individual, partnership, corporation, firm, trust or unincorporated organization, and a government or agency or political subdivision thereof.

"Pricing Assumptions" shall mean the assumptions set forth in Annex 2 to the Lease.

"Prime Rate" shall mean for any day the rate announced by Citibank, N.A., from time to time at its principal office in New York, New York, as its prime rate for domestic (United States) commercial loans in effect on such day (such Prime Rate is not necessarily intended to be the lowest rate of interest charged by Citibank, N.A., in connection with the extensions of credit).

"Purchase Price" shall mean with respect to an Item of Equipment the amount paid by Lessor to acquire such item, including taxes, freight and like charges, which amount will be set forth in the Lease Supplement.

"Reasonable Basis" for a position shall exist if tax counsel may properly advise reporting such position on a tax return in accordance with Formal Opinion 85-352 issued by the Standing Committee on Ethics and Professional Responsibility of the American Bar Association.

"Regulations" shall mean the income tax regulations issued, published or promulgated under the Code.

"Renewal Term" shall mean any term in respect of which the Lessee shall have exercised its option to renew the Lease pursuant to Section 25(a) thereof.

"Rent Payment Dates" shall mean for each Item of Equipment (i) for the Basic Term thereof, December 30, 1994 and the thirtieth day of each June and December thereafter throughout, to and including December 30, 2005, and (ii) for each Renewal Term thereof, each date on which a payment of Fixed Rent is due and payable for such Item as provided in Section 25(a) of the Lease.

"Stipulated Loss Value" of an Item as of any Rent Payment Date shall mean the amount determined in accordance with Exhibit D of the Lease as such percentage or percentages may be adjusted in accordance with the provisions of Section 6(f) of the Lease.

"Supplemental Rent" shall mean all amounts, liabilities and obligations (other than Fixed Rent) which the Lessee is obligated to pay under the Lease, including, but not limited to, Stipulated Loss Value and Termination Value payments.

"Tax Assumptions" shall have the meaning given in Section 2 of the Tax Indemnification Agreement.

"Term" shall mean the Lease Term.

"Termination Value" of an Item of Equipment as of any Rent Payment Date shall mean with respect to such Item of Equipment an amount determined in accordance with Exhibit D of the Lease as such percentage or percentages may be adjusted in accordance with the provisions of Section 6(f) of the Lease.

PRICING ASSUMPTIONS

Closing Date: November 9, 1994

Assets: 500 new open hopper railcars, as listed in Exhibit A to the Railcar Lease

Purchase Price of Assets: \$43,810.64 per railcar

Interim Term  
Commencement Date: November 14, 1994

Basic Term  
Commencement Date: December 30, 1994

Basic Term: Eleven years

Interim Rent: None

Fixed Rent During The  
Basic Term: As set forth in Exhibit C to the Railcar Lease

Description of Equipment: 500 new open hopper railcars as more specifically described in the Lease Supplement delivered on the Closing Date

Exhibit A

EQUIPMENT DESCRIPTION

500 aluminum Bethgon Coalporter Railcars as more specifically described below:

Railcar Numbers

OVEX 6001 through and including OVEX 6500

This Lease Supplement No. 1 dated as of November 14, 1994 between Pitney Bowes Credit Corporation, ("Lessor"), and Ohio Valley Electric Corporation, an Ohio corporation ("Lessee"),

W I T N E S S E T H:

1. Lessor and Lessee have heretofore entered into a Railcar Lease dated as of November 1, 1994 (the "Lease") providing for the execution and delivery of Lease Supplements substantially in the form hereof. The terms defined in the Lease shall have the same meanings when used herein.

2. Lessee hereby acknowledges and confirms that on or prior to the date hereof, the Equipment described in Schedule 1 attached hereto has been delivered and assembled. Lessee represents that the Equipment is free and clear of all liens and encumbrances.

3. Lessee hereby certifies that the date of acceptance of the Equipment and commencement of the Lease Term with respect thereto is December 30, 1994.

4. Lessee hereby certifies that such Purchase Price for the Equipment as of the date hereof is \$21,905,320.00.

5. Fixed Rent, Stipulated Loss Values and Termination Values for the Equipment is payable in the amounts and on the Rent Payment Dates set forth in Schedule 2 attached hereto.

PITNEY BOWES CREDIT CORPORATION  
**LESSOR**

By: \_\_\_\_\_  
Its:

OHIO VALLEY ELECTRIC CORPORATION  
**LESSEE**

By: \_\_\_\_\_  
Its: Vice President

State of Ohio            )  
                                  ) SS.:  
County of Franklin    )

On this, the \_\_\_\_\_ day of November, 1994, before me, a Notary Public in and for said County and State, personally appeared G. P. Maloney, the Vice President of Ohio Valley Electric Corporation, who acknowledged himself to be a duly authorized officer of Ohio Valley Electric Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

In Witness Whereof, I have hereunto set my hand and official seal on the date above mentioned.

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

State of Connecticut    )  
                                  ) SS.:  
County of Fairfield    )

On this, the \_\_\_\_\_ day of November, 1994, before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of Pitney Bowes Credit Corporation, who acknowledged himself to be a duly authorized officer of Pitney Bowes Credit Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

In Witness Whereof, I have hereunto set my hand and official seal on the date above mentioned.

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

The Fixed Rent shall be determined by multiplying (i) the Purchase Price of each Item of Equipment by (ii) the Fixed Rent Factor as set forth below.

<u>RENT PAYMENT DATE</u>	<u>FIXED RENT FACTOR</u>
June 30, 1995	4.8249%
December 30, 1995	4.8249%
June 30, 1996	4.8249%
December 30, 1996	4.8249%
June 30, 1997	4.8249%
December 30, 1997	4.8249%
June 30, 1998	4.8249%
December 30, 1998	4.8249%
June 30, 1999	4.8249%
December 30, 1999	4.8249%
June 30, 2000	4.8249%
December 30, 2000	4.8249%
June 30, 2001	4.8249%
December 30, 2001	4.8249%
June 30, 2002	4.8249%
December 30, 2002	4.8249%
June 30, 2003	4.8249%
December 30, 2003	4.8249%
June 30, 2004	4.8249%
December 30, 2004	4.8249%
June 30, 2005	4.8249%
December 30, 2005	4.8249%

Exhibit D

Period Ending	ADJUSTED STIPULATED LOSS VALUE AND TERMINATION VALUE AS % OF PURCHASE PRICE
Nov 30, 1994	100.436803
Dec 30, 1994	104.192431
Jan 30, 1995	104.929190
Feb 30, 1995	105.665948
Mar 30, 1995	106.406299
Apr 30, 1995	107.146459
May 30, 1995	107.882834
Jun 30, 1995	103.792221
Jul 30, 1995	104.488680
Aug 30, 1995	105.185139
Sep 30, 1995	105.880135
Oct 30, 1995	106.573667
Nov 30, 1995	107.267198
Dec 30, 1995	103.135156
Jan 30, 1996	103.791510
Feb 30, 1996	104.447863
Mar 30, 1996	105.107353
Apr 30, 1996	105.768620
May 30, 1996	106.428527
Jun 30, 1996	102.263703
Jul 30, 1996	102.888042
Aug 30, 1996	103.512381
Sep 30, 1996	104.137451
Oct 30, 1996	104.763251
Nov 30, 1996	105.389051
Dec 30, 1996	101.191419
Jan 30, 1997	101.784174
Feb 30, 1997	102.376930
Mar 30, 1997	102.972776
Apr 30, 1997	103.572135
May 30, 1997	104.171916
Jun 30, 1997	99.948618
Jul 30, 1997	100.516002
Aug 30, 1997	101.083386
Sep 30, 1997	101.653101
Oct 30, 1997	102.225145
Nov 30, 1997	102.797189
Dec 30, 1997	98.547357
Jan 30, 1998	99.089350
Feb 30, 1998	99.631344
Mar 30, 1998	100.176107
Apr 30, 1998	100.725193
May 30, 1998	101.275834
Jun 30, 1998	97.004417
Jul 30, 1998	97.524595
Aug 30, 1998	98.044774
Sep 30, 1998	98.568259
Oct 30, 1998	99.095050
Nov 30, 1998	99.621842

Period Ending	ADJUSTED STIPULATED LOSS VALUE AND TERMINATION VALUE AS % OF PURCHASE PRICE
Dec 30, 1998	95.327691
Jan 30, 1999	95.826201
Feb 30, 1999	96.324710
Mar 30, 1999	96.826232
Apr 30, 1999	97.332218
May 30, 1999	97.839659
Jun 30, 1999	93.524840
Jul 30, 1999	94.001315
Aug 30, 1999	94.477789
Sep 30, 1999	94.957316
Oct 30, 1999	95.439895
Nov 30, 1999	95.922474
Dec 30, 1999	91.583802
Jan 30, 2000	92.037377
Feb 30, 2000	92.490952
Mar 30, 2000	92.947277
Apr 30, 2000	93.407700
May 30, 2000	93.869471
Jun 30, 2000	89.508772
Jul 30, 2000	89.939044
Aug 30, 2000	90.369317
Sep 30, 2000	90.802373
Oct 30, 2000	91.238212
Nov 30, 2000	91.674052
Dec 30, 2000	87.288314
Jan 30, 2001	87.694386
Feb 30, 2001	88.100459
Mar 30, 2001	88.509005
Apr 30, 2001	88.922824
May 30, 2001	89.339444
Jun 30, 2001	84.934946
Jul 30, 2001	85.322676
Aug 30, 2001	85.710406
Sep 30, 2001	86.102236
Oct 30, 2001	86.498165
Nov 30, 2001	86.894094
Dec 30, 2001	82.469731
Jan 30, 2002	82.838376
Feb 30, 2002	83.207022
Mar 30, 2002	83.578542
Apr 30, 2002	83.957215
May 30, 2002	84.340167
Jun 30, 2002	79.903409
Jul 30, 2002	80.260214
Aug 30, 2002	80.617018
Sep 30, 2002	80.979306
Oct 30, 2002	81.347078
Nov 30, 2002	81.714850

Period Ending	ADJUSTED STIPULATED LOSS VALUE AND TERMINATION VALUE AS % OF PURCHASE PRICE
Dec 30, 2002	77.263697
Jan 30, 2003	77.606860
Feb 30, 2003	77.950024
Mar 30, 2003	78.296533
Apr 30, 2003	78.650608
May 30, 2003	79.008904
Jun 30, 2003	74.547375
Jul 30, 2003	74.879237
Aug 30, 2003	75.211099
Sep 30, 2003	75.548299
Oct 30, 2003	75.890837
Nov 30, 2003	76.233375

Dec 30, 2003	71.756813
Jan 30, 2004	72.074331
Feb 30, 2004	72.391849
Mar 30, 2004	72.712563
Apr 30, 2004	73.040634
May 30, 2004	73.372866
Jun 30, 2004	68.885151
Jul 30, 2004	69.190645
Aug 30, 2004	69.496138
Sep 30, 2004	69.806816
Oct 30, 2004	70.122678
Nov 30, 2004	70.438541

Dec 30, 2004	65.935117
Jan 30, 2005	66.225524
Feb 30, 2005	66.515932
Mar 30, 2005	66.809377
Apr 30, 2005	67.130274
May 30, 2005	67.475587
Jun 30, 2005	65.000000
Jul 30, 2005	65.000000
Aug 30, 2005	65.000000
Sep 30, 2005	65.000000
Oct 30, 2005	65.000000
Nov 30, 2005	65.000000

Dec 30, 2005	65.000000
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