

# HOGAN & HARTSON

COLUMBIA SQUARE  
555 THIRTEENTH STREET NW  
WASHINGTON, DC 20004-1109  
202/637-5600

PETER F. ROUSSELOT  
DIRECT DIAL 202/637-5720

RECORDATION NO 7935-H FILED 1425

MAR 25 1991 -4 15 PM

INTERSTATE COMMERCE COMMISSION

6701 ROCKLEDGE DRIVE  
BETHESDA, MARYLAND 20817  
301/483-0030

111 SOUTH CALVERT STREET  
BALTIMORE, MARYLAND 21202  
301/658-2700

1-085A002

8300 GREENSBORO DRIVE  
MCLEAN, VIRGINIA 22102  
703/848-2600

RECORDATION NO 7935-J FILED 1425

March 25, 1991

RECORDATION NO 7935-K FILED 1425

MAR 25 1991 -4 15 PM

INTERSTATE COMMERCE COMMISSION

BY HAND MAR 25 1991 -4 15 PM  
INTERSTATE COMMERCE COMMISSION

Mr. Sydney L. Strickland  
Secretary  
Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423  
ATTN: Mrs. Mildred Lee

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two original executed and one notarized photostatic copies of the following documents:

1. Second Amendment to Lease of Railroad Equipment, executed by Heller Financial, Inc., as Lessor, and WCTU Railway Company, as Lessee, (including Schedule 1 thereto), dated March 18, 1991.

The Second Amendment to Lease of Railroad Equipment amends the Lease of Railroad Equipment, dated March 1, 1975, and between WCTU Railroad Company and Walter E. Heller & Company (Recordation No. 7935-A, attached as Schedule 1 to the Second Amendment).

2. Amendment to the Conditional Sale Agreement, executed by Heller Financial, Inc., as Vendee, and First Security Bank of Utah, as Assignee, (including Exhibits A and B thereto), dated March 18, 1991.

MAR 25 4 03 PM '91

HOGAN & HARTSON

Mr. Sydney L. Strickland  
March 25, 1991  
Page 2

The Amendment to the Conditional Sale Agreement amends the Conditional Sale Agreement, dated March 1, 1975, and between Walter E. Heller & Company and Paccar Inc. (Recordation No. 7935, attached as Exhibit A to the Amendment). Also enclosed as Exhibit B to the Amendment is the Agreement and Assignment, dated March 1, 1975, and between Paccar Inc. and First Security Bank of Utah.

3. Amendment to Assignment of Lease and Agreement, executed by Heller Financial, Inc., as Lessor, or Vendee and First Security Bank of Utah, as Vendor, (including Schedule 1 thereto), dated March 18, 1991.

The Amendment to Assignment of Lease and Agreement amends the Assignment of Lease and Agreement, dated March 1, 1975, and between Walter E. Heller & Company and First Security Bank of Utah (Recordation No. 7935-B, attached as Schedule 1 to the Amendment).

A description of the railroad equipment covered by the enclosed documents is set forth in Annex B of the Conditional Sale Agreement, Recordation No. 7935, dated May 29, 1975.

The names and addresses of the aforementioned parties to the enclosed documents are:

Heller Financial, Inc.  
c/o David Heisler  
200 North LaSalle Street  
Suite 1200  
Chicago, IL 60601

WCTU Railway Company  
c/o Nicholas A. Mermigas  
111 West Jackson Boulevard  
Chicago, IL 60604

First Security Bank of Utah, N.A.  
c/o Tanta Lisa Clayton, Esq.  
Corporate Trust Department  
79 South Main Street  
Salt Lake City, UT 84130

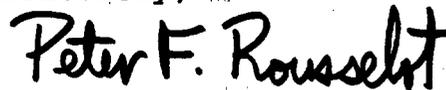
HOGAN & HARTSON

Mr. Sydney L. Strickland  
March 25, 1991  
Page 3

Also enclosed is a check payable to the order of the Interstate Commerce Commission, covering the required recordation fee. Kindly return one stamped photostatic copy of the enclosed document, as well as a stamped photostatic copy of this letter to Peter F. Rousselot, Esquire, Hogan & Hartson, 555 Thirteenth Street, N. W., Washington, D. C. 20004-1109.

Please feel free to contact me with any questions which you may have concerning the above.

Sincerely,



Peter F. Rousselot

Enclosures

cc: Sheila A. Glancy  
Patrick M. Raher

Interstate Commerce Commission  
Washington, D.C. 20423

3/26/91

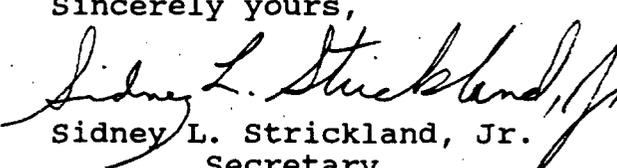
OFFICE OF THE SECRETARY

Peter F. Rousselot  
Hogan & Hartson  
Columbia Square  
555 13th Street N.W.  
Washington, D.C. 2000-4-1109

Dear Sir

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/25/91 at 4:15pm, and assigned recordation number(s). 7935-G, 7935-H & 7935-I

Sincerely yours,

  
Sidney L. Strickland, Jr.  
Secretary

7935-H  
MAR 25 1991 - 4 15 PM  
INTERSTATE COMMERCE COMMISSION

AMENDMENT TO THE CONDITIONAL SALE AGREEMENT  
BETWEEN HELLER FINANCIAL, INC.  
AND FIRST SECURITY BANK OF UTAH, N.A.  
AS AGENT AND ASSIGNEE

AMENDMENT dated as of March 18, 1991, to the CONDITIONAL SALE AGREEMENT, dated as of March 1, 1975 ("Conditional Sale Agreement") (a copy of which as heretofore amended is attached hereto as Exhibit A), between HELLER FINANCIAL, INC., a Delaware corporation formerly named WALTER E. HELLER & COMPANY ("Vendee"), and FIRST SECURITY BANK OF UTAH, N.A., ("Assignee"), not in its individual capacity, but solely as agent and assignee of certain rights, title and interests of the Vendor in and to the Conditional Sale Agreement pursuant to that certain Agreement and Assignment, dated as of March 1, 1975, between PACCAR, INC. ("Vendor") and Assignee ("Agreement and Assignment") (a copy of which is attached as Exhibit B hereto).

WHEREAS, WCTU RAILWAY COMPANY ("Lessee"), an Oregon corporation, and Vendee, as lessor entered into a Lease of Railroad Equipment ("Lease"), dated as of March 1, 1975; and

WHEREAS, the Lease provides that the railroad equipment which is the subject of the Lease (the "Units") must be used in service exclusively in the United States of America; and

WHEREAS, the Lessee and Vendee have entered into a Second Amendment To Lease of Railroad Equipment ("Second Amendment"), dated as of March 18, 1991, which amends the Lease and provides that the Lessee may also use and/or permit the use of the Units in service in Canada; and

WHEREAS, the Second Amendment further provides that the Lessee will, at its own expense, file, register and record the Lease and each amendment thereto in all jurisdictions required by law or reasonably requested by the Vendee or the Assignee for the purpose of proper protection of the Assignee's and the Vendee's respective interests in the Units; provided that the Lessee shall not be required to take any such action in Canada if (1) the Lessee deems such action unduly burdensome, and (2) after giving effect to the failure to take such action, the Lessee has taken all action required by law so as to protect the Assignee's and the Vendee's respective interests in the Units having a fair value of not less than 90% of the aggregate fair value of all of the Units (such fair value deemed to be the greater of (a) the actual fair market value thereof and (b) the Casualty Value thereof (as such term is defined in the Lease)); and

WHEREAS, the Second Amendment provides that the sole filing, registration, deposit and recording presently required in Canada pursuant to the terms and conditions of the Second Amendment

is with the Office of the Registrar General of Canada pursuant to Section 90 of the Railway Act, R.S.C. 1985, c. R-3.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, Vendee and Assignee do hereby agree to amend the Conditional Sale Agreement as heretofore amended, a copy of which is attached as Exhibit A and incorporated by reference into this Amendment, as follows:

1. The following subparagraph is inserted following the third subparagraph of Article 12 and immediately preceding Article 13 of the Conditional Sale Agreement:

Notwithstanding the above, Vendee may assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof in Canada; provided that the Vendee has made all filings, reservations, registrations, deposits, and/or recordation required by law or reasonably requested by Assignee or Vendor pursuant to Article 19 hereof so as to adequately protect Vendor's and Vendee's respective interests in the units of the Equipment.

2. Article 19 of the Conditional Sale Agreement is deleted in its entirety and the following is inserted in lieu thereof:

ARTICLE 19. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. Section 11303; and the Vendee will cause any assignments and any amendments or supplements to this Agreement permitting the use of units of the Equipment in Canada to be registered pursuant to section 90 of the Railway Act, R.S.C. 1985, c. R-3; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor; provided that the Vendee shall not be required to take such action in Canada if (1) the Vendee deems such action unduly burdensome and (2) after giving effect to the failure to take such action, the Vendee has taken all action required by law so as to protect the Vendor's and the Vendee's respective interests in the units of Equipment having a fair value of not less than 90% of the aggregate fair value of all of the units of Equipment (such fair value deemed to be the greater of (a) the actual fair market value thereof and (b)

the Casualty Value thereof). The parties hereto recognize that the sole filings, registrations, deposits and recordings presently required in the United States of America pursuant to this Article 19 are with the Interstate Commerce Commission. Further, the parties recognize that the sole filing, registration, deposit and recording presently required in Canada pursuant to this Article 19 is with the Office of the Registrar General of Canada pursuant to Section 90 of the Railway Act, R.S.C. 1985, c. R-3.

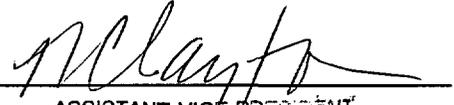
3. This Amendment is a part of the above referenced Conditional Sale Agreement. In the event of any conflict or inconsistency between the terms and conditions of this Amendment and the terms and conditions of the Conditional Sale Agreement, the terms and conditions of this Amendment shall, to the extent of such conflict or inconsistency, govern.

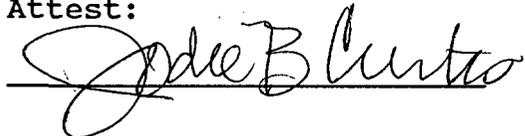
4. This Amendment may be executed in several counterparts, such counterparts together constituting but one and the same instrument.

This Amendment is dated and shall be effective as of the date first above written. Except as provided above, the Conditional Sale Agreement is hereby preserved and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Amendment to be executed.

FIRST SECURITY BANK OF  
UTAH, N.A., not in its individual  
capacity but solely as agent

BY:   
TITLE: ASSISTANT VICE PRESIDENT

[Corporate Seal]  
Attest:  


HELLER FINANCIAL, INC.

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

(Corporate Seal)  
Attest:  
\_\_\_\_\_

the Casualty Value thereof). The parties hereto recognize that the sole filings, registrations, deposits and recordings presently required in the United States of America pursuant to this Article 19 are with the Interstate Commerce Commission. Further, the parties recognize that the sole filing, registration, deposit and recording presently required in Canada pursuant to this Article 19 is with the Office of the Registrar General of Canada pursuant to Section 90 of the Railway Act, R.S.C. 1985, c. R-3.

3. This Amendment is a part of the above referenced Conditional Sale Agreement. In the event of any conflict or inconsistency between the terms and conditions of this Amendment and the terms and conditions of the Conditional Sale Agreement, the terms and conditions of this Amendment shall, to the extent of such conflict or inconsistency, govern.

4. This Amendment may be executed in several counterparts, such counterparts together constituting but one and the same instrument.

This Amendment is dated and shall be effective as of the date first above written. Except as provided above, the Conditional Sale Agreement is hereby preserved and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed or caused this Amendment to be executed.

FIRST SECURITY BANK OF  
UTAH, N.A., not in its individual  
capacity but solely as agent

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

[Corporate Seal]  
Attest:

\_\_\_\_\_

HELLER FINANCIAL, INC.

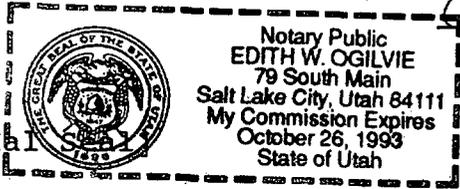
BY: Royce E. McMullen  
TITLE: EVP

(Corporate Seal)  
Attest:  
[Signature]

STATE OF Utah )  
 )  
COUNTY OF Salt Lake ) ss

On this 21 day of March, 1991, before me personally appeared Tanta Lisa Clayton, to me personally known, who, being by me duly sworn, says that she is Asst. Vice Pres. of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Edith W Ogilvie  
Notary Public

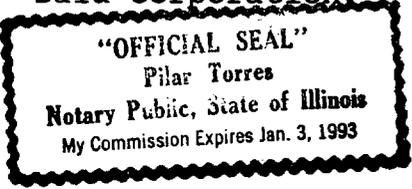


[Notarial Seal]

My Commission expires \_\_\_\_\_

STATE OF Illinois )  
 )  
COUNTY OF COOK ) SS

On this 18<sup>th</sup> day of March, 1991, before me personally appeared GEORGE E. McMACKIN, to me personally known, who, being by me duly sworn, says that he is Executive Vice President of HELLER FINANCIAL, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Pilar Torres  
Notary Public

[Notarial Seal]

My Commission expires January 3, 1993

Exhibit A to AMENDMENT TO THE  
CONDITIONAL SALE AGREEMENT BETWEEN  
HELLER FINANCIAL, INC. AND FIRST  
SECURITY BANK OF UTAH, N.A., AS AGENT  
AND ASSIGNEE

RECORDATION NO. 7935 FILED & RECORDED  
MAY 29 1975--10:35 AM  
INTERSTATE COMMERCE COMMISSION

EXHIBIT A  
TO  
FINANCE AGREEMENT

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CONDITIONAL SALE AGREEMENT

Dated as of March 1, 1975

between

WALTER E. HELLER & COMPANY

and

PACCAR INC

CONDITIONAL SALE AGREEMENT dated as of March 1, 1975, between the corporation named in Item 1 of Annex A hereto (hereinafter called the Vendor or Builder as more particularly set forth in Article 1 hereof) and WALTER E. HELLER & COMPANY, a Delaware corporation (hereinafter called the Vendee).

WHEREAS the Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto (hereinafter called the Equipment);

WHEREAS the Vendee is entering into a lease dated as of the date hereof with WCTU Railway Company (hereinafter called the Lessee) in substantially the form annexed hereto as Annex C (hereinafter called the Lease); and

WHEREAS First Security Bank of Utah, N.A. (hereinafter called the Assignee), is acting as agent for the investors pursuant to the Finance Agreement dated as of March 1, 1975 (hereinafter called the Finance Agreement), among the Assignee, the Vendee, the Lessee and the parties named in Schedules A and B thereto;

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

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Vendee will furnish that portion of the Purchase Price (as hereinafter defined) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof between the Builder and the Assignee, as agent (such Agreement and Assignment being hereinafter called the Assignment).

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufactur-

ing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto.

In addition, the Lessee proposes to enter into a Lessee's Consent and Agreement dated as of the date hereof, substantially in the form of Annex E hereto (hereinafter called the Consent), and Union Tank Car Company (hereinafter called the Guarantor), the owner of all the outstanding capital stock of the Lessee, proposes to enter into a Guaranty Agreement dated as of the date hereof (hereinafter called the Guaranty Agreement) with the Vendee and the Agent, substantially in the form of Annex F hereto.

**ARTICLE 2. Construction and Sale.** Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto, and will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided) the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit (except to the extent, if any,

referred to in Annex A hereto) will be new railroad equipment.

ARTICLE 3. Inspection and Delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease have been filed pursuant to Section 20c of the Interstate Commerce Act; and provided, further, that the Builder shall have no obligation to deliver any unit of the Equipment hereunder subsequent to the commencement of any proceedings specified in clause (c) of Article 16 hereof or clauses D and E of § 10 of the Lease or the occurrence of any event of default (as described in Article 16 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before the Cut-Off Date (as defined in Article 4 hereof) shall be excluded from this Agreement. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the

Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 10 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof. Inspection of the Equipment shall not as to any Unit thereof be delayed beyond 72 hours from notification from the Builder to the Vendee that such Unit is ready for delivery.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in Article 14 hereof.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as is agreed to by the Builder, the Vendee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of the Equipment for which settlement has theretofore been and is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as the Vendee may at its option agree to), the Builder (and any assignee of the Builder) will, upon request of the Vendee, enter into an agreement excluding from this Agreement such unit or units of the Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as aforesaid).

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean such date (not later than September 15, 1975, such date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the invoice and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Vendee and the Vendor at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Salt Lake City, Utah, are authorized or obligated to remain closed.

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

(a) on the Closing Date with respect to each Group (i) an amount equal to 32.7887% of the aggregate Purchase Price of such Group plus (ii) the amount, if any, by which (x) 67.2113% of the Purchase Price of all units of the Equipment for which settlement has theretofore and is then being made, as set forth in the invoice or invoices therefor (said invoiced prices being herein called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Item 6 of Annex A and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii); and

(b) in 40 consecutive semiannual instalments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale Indebtedness) shall be payable on each March 15 and September 15, commencing March 15, 1976, to and including September 15, 1995 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness from time to time outstanding shall bear interest from the Closing Date in respect of which such indebtedness was incurred to September 15, 1975, at a rate computed on a daily basis equal to 125% of the prime rate per annum of Morgan Guaranty Trust Company of New York on 90-day loans to responsible and substantial commercial borrowers from time to time in effect on each such day divided by 360 (hereinafter called the Interim Rate) and at the rate of 10-1/2% per annum thereafter. Such interest shall be payable, to the extent accrued, on September 15, 1975, and on each Payment Date thereafter. The instalments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto. The Vendee will furnish to the Vendor and the Lessee promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

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

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 11-1/2% per annum.

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

The obligation of the Vendee to pay to the Vendor any amount required to be paid pursuant to subparagraph (a)

of the third paragraph of this Article with respect to any Group is specifically subject to the fulfillment, in a manner satisfactory to the Vendee, on or before the Closing Date in respect of such Group, of the following conditions (any of which may be waived by the Vendee, and payment by the Vendee of the amount specified in subparagraph (a) of the third paragraph of this Article with respect to such Group shall be conclusive evidence that such conditions have been fulfilled or irrevocably waived):

(a) no Event of Default of the Lessee under the Lease, nor any event which with lapse of time and/or demand provided for in the Lease could constitute such an Event of Default, shall have occurred and be continuing;

(b) the Vendee shall have received (i) the opinions of counsel required by § 15 of the Lease and (ii) such other documents as the Vendee may reasonably request; and

(c) each of the conditions set forth in Section 4 of the Assignment shall have been fulfilled in a manner satisfactory to the Vendor.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof), but not limiting the effect of Article 23 hereof, it is understood and agreed by the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder and excluding only the payments to be made pursuant to Article 20 hereof and subparagraph (a) of the third paragraph of this Article, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income or proceeds from the Equipment" to make such payments. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease or the Consent in so far as it relates to the Lessee (or any document relative thereto) or the Guaranty Agreement in so far as it relates to the Guarantor or of any of the Lessee's or the Guarantor's obligations thereunder and (ii) shall not be responsible for the

performance or observance by the Lessee or the Guarantor of any of their respective agreements, representations, indemnities, obligations or other undertakings under the Lease, the Consent or the Guaranty Agreement; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment, to the Vendor's rights under the Lease against the Lessee and the Equipment, to the Vendor's rights under the Consent against the Lessee and to the Vendor's rights under the Guaranty Agreement. As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 16 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 10 or any other provision of the Lease or the Guaranty Agreement and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Nothing contained herein limiting the

liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder or to proceed against the Lessee under the Lease or the Consent or against the Guarantor under the Guaranty Agreement. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5. Security Interest in the Equipment.  
The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease. Any and all additions to the Equipment (except any communications, signal and automatic control equipment or devices having a similar use which have been added to such unit by the Lessee, the cost of which is not included in the Purchase Price of such unit and which are not required for the operation or use of such unit by the Interstate Commerce Commission, the Department of Transportation or any other regulatory body), and any and all parts installed on and additions and replacements made to any unit of the Equipment shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, and all the Vendee's obligations herein contained shall have been performed, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. How-

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

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than net income taxes, gross receipts taxes [except gross receipts taxes in the nature of or in lieu of sales, use or rental taxes], franchise taxes measured by net income based upon such receipts, excess profits taxes and similar taxes) or license fees, assessments, charges, fines or penalties hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Vendee assumes and agrees to pay on demand. The Vendee will also pay promptly all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the title of the Vendor or result in a lien upon

any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith (after written notice to the Vendor) and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Vendor, materially adversely affect the title, property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor and paid by the Vendor, the Vendee shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved the payment thereof.

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

In the event that any unit of the Equipment shall be worn out, lost, stolen, destroyed, or, in the opinion of the Vendee or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 180 consecutive days (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the next succeeding September 15 for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor in immediately available funds a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each instalment, the Conditional Sale Indebtedness and the Vendee will promptly furnish to

the Vendor a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor may request, calculated as provided in the fourth paragraph of Article 4 hereof.

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

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit), plus interest accrued on such portion but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of the Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of units suffering a Casualty Occurrence, the Vendor shall, after receipt of payments from the Vendee in respect of the Casualty Value thereof, pay such insurance proceeds or condemnation payments to the Vendee. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Assignment of Lease. The Vendee, concurrently with the execution and delivery of this Agreement, is assigning to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title and interest of the Vendee in and to the Lease. The Vendee agrees that the "income and proceeds from the Equipment" (as defined in Article 4 hereof) received by the Vendor may be applied by the Vendor to discharge the obligations of the Vendee hereunder and the Vendor agrees to pay to the Vendee (or to the order of the Vendee at such address as the Vendee may specify in writing) any moneys paid to the Vendor under the Lease or the Guaranty Agreement not constituting "income and proceeds from the Equipment".

ARTICLE 9. Reports and Inspections. On or before September 15 in each year, commencing with the year 1976, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding June 30 the amount, description and numbers of all units of Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding twelve months and setting forth such information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 10 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Vendee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road number of the Lessee as set forth in Annex B hereto, or, in the case of Equipment not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c", with appropriate changes thereof and additions thereto as from time

to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings that may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement shall promptly be filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited. The Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

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

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

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

The Vendee simultaneously herewith is leasing the Equipment to the Lessee for use as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

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

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

to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

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

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

The agreement of the parties relating to the Build-

er's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 15. Assignments. The Vendee will not (a) except as provided in Article 12 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee to a vendee, assignee or transferee without the assumption by such party of any of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 14 hereof, or relieve the Vendee of its obligations to the Builder contained in Articles 2, 3, 4, 6, and 14 hereof, Annex A hereto and this Article 15, or any other obligation which, according to its terms or context, is intended to survive an assignment.

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

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

The Vendee will (a) in connection with each settlement for the Equipment, deliver to the Assignee, on the Closing Date for the Equipment, all documents required by the terms of the Assignment to be delivered to the Assignee by the Vendee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for the Assignee, and (b) cause to be furnished to the Assignee such number of counterparts of any other document required by the Vendor as may reasonably be requested.

If the Builder shall not receive on any Closing Date the aggregate Purchase Price in respect of all the Equipment proposed to be settled for on such Closing Date, the Builder will promptly notify the Vendee of such event and, if such amount shall not have been previously paid, the parties hereto will enter into an appropriate written agreement excluding from this Agreement those units of Equipment whose aggregate Purchase Price shall not have been received but fully preserving the Builder's security interest in such Equipment in a manner acceptable to the Builder.

ARTICLE 16. Defaults. In the event that any one

or more of the following events of default shall occur and be continuing, to wit:

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

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

(c) a proceeding shall be commenced by or against the Vendee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee under this Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(d) the Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(e) an Event of Default as defined in the Lease shall occur;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) cause the term of the Lease immediately upon such notice to terminate, but without affecting the indemnities which by the provisions of the Lease survive the termination of its term, and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of the property of the Vendee, subject to the provisions of Articles 4 and 23 hereof. The Vendee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

Anything in this Agreement to the contrary notwithstanding, in the case of any event of default occurring hereunder due to the nonpayment by the Lessee of rental due and payable under § 3 of the Lease as to which the Lessor has the right to cure under the Lease, the Vendor shall not, without the prior written consent of the Vendee, exercise any remedy or remedies provided herein or in the Lease in respect of such event of default unless and until an event of default hereunder shall have otherwise occurred. Prior to such occurrence, the Vendee shall have the right to cure on behalf of the Lessee such nonpayment of rental under the Lease; provided, however, that any such cure

shall not constitute, and shall not be construed as, a waiver of any other then existing or future event of default under the Lease or any rights or remedies of the Vendee and/or the Vendor arising therefrom. No party exercising any right to cure such nonpayment of rental under the Lease pursuant to this paragraph shall obtain any lien, charge or encumbrance of any kind on any of the Equipment or any rentals or other amounts payable therefor under the Lease in respect of any sums paid in connection with the exercise of such right or the curing of such nonpayment, nor shall any claims of such party against the Lessee or the repayment of such sums so advanced impair the prior right of the Vendor to the sums payable by the Lessee under the Lease. The rights provided in this paragraph shall be in addition to, and shall not be construed to limit, the rights of the Vendee set forth in the fourth paragraph of Article 17 hereof.

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

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and in compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from the possession and use of the Vendee, the Lessee or any other person and for such purpose may enter upon the premises of the Vendee or the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Lessee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points on the lines or premises of the Lessee for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense, forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any part of the Equipment has been interchanged to return the Equipment so interchanged), cause (a) the Equipment to be moved to such point or points on the lines of the Lessee as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor and (b) the Equipment to be moved to such interchange point or points as shall be designated by the Vendor upon any sale, lease or other disposal of all or any part of the Equipment by the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Lessee until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Vendee agrees to cause to be furnished, without charge for rent or storage, the necessary facilities at any point or points selected by the Vendor. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second

proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

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

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

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

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient

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

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

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

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

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

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

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

ARTICLE 20. Payment of Expenses. The Vendee will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related

hereto or thereto, including all fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment.

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

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

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

(a) to the Vendee, at 105 West Adams Street, Chicago, Illinois 60690, Attention: Samuel L. Eichenfield, Vice President Leasing,

(b) to the Builder, at the address specified in Item 1 of Annex A hereto,

(c) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, by such assignee,

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

ARTICLE 23. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of

law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise. of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement. The obligations of the Vendee under the first paragraph of Article 7, the second paragraph of Article 17 and under Articles 3, 6, 9, 10, 11, 13, 14 and 19 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

ARTICLE 24. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

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

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

PACCAR INC,

by J. J. JOLLEY

[CORPORATE SEAL]

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

Attest:

E. A. CARPENTER

\_\_\_\_\_  
Secretary

WALTER E. HELLER & COMPANY,

by S. EICHENFIELD

-----  
Vice President

[CORPORATE SEAL]

Attest:

CHARLES A. BRIZZOLARA

-----  
Secretary





SCHEDULE I

Conditional Sale Agreement

Allocation Schedule  
on Each \$1,000,000 Unit of  
Conditional Sale Indebtedness

<u>Payment Number</u>	<u>Principal Balance</u>	<u>Payment Interest</u>	<u>Allocated to Principal</u>	<u>Total Payment</u>	<u>Payment Date</u>
1	\$1,000,000.00	\$ 52,500.00	\$ 13,859.52	\$ 66,359.52	March 15, 1976
2	986,140.48	51,772.38	14,587.14	66,359.52	September 15, 1976
3	971,553.34	51,006.55	15,352.97	66,359.52	March 15, 1977
4	956,200.37	50,200.52	16,159.00	66,359.52	September 15, 1977
5	940,041.37	49,352.17	17,007.35	66,359.52	March 15, 1978
6	923,034.02	48,459.29	17,900.23	66,359.52	September 15, 1978
7	905,133.79	47,519.52	18,840.00	66,359.52	March 15, 1979
8	886,293.79	46,530.42	19,829.10	66,359.52	September 15, 1979
9	866,464.69	45,489.40	20,870.12	66,359.52	March 15, 1980
10	845,594.57	44,393.71	21,965.81	66,359.52	September 15, 1980
11	823,628.76	43,240.51	23,119.01	66,359.52	March 15, 1981
12	800,509.75	42,026.76	24,332.76	66,359.52	September 15, 1981
13	776,176.99	40,749.29	25,610.23	66,359.52	March 15, 1982
14	750,566.76	39,404.75	26,954.77	66,359.52	September 15, 1982
15	723,611.99	37,989.63	28,369.89	66,359.52	March 15, 1983
16	695,242.10	36,500.21	29,859.31	66,359.52	September 15, 1983
17	665,382.79	34,932.60	31,426.92	66,359.52	March 15, 1984
18	633,955.87	33,282.68	33,076.84	66,359.52	September 15, 1984

<u>Payment Number</u>	<u>Principal Balance</u>	<u>Payment Interest</u>	<u>Allocated to Principal</u>	<u>Total Payment</u>	<u>Payment Date</u>
19	\$600,879.03	\$ 31,546.15	\$ 29,189.76	\$ 60,735.91	March 15, 1985
20	571,689.27	30,013.69	30,722.22	60,735.91	September 15, 1985
21	540,967.05	28,400.77	26,167.88	54,568.65	March 15, 1986
22	514,799.17	27,026.96	27,541.69	54,568.65	September 15, 1986
23	487,257.48	25,581.02	22,983.72	48,564.74	March 15, 1987
24	464,273.76	24,374.37	24,190.37	48,564.74	September 15, 1987
25	440,083.39	23,104.38	21,927.17	45,031.55	March 15, 1988
26	418,156.22	21,953.20	23,078.35	45,031.55	September 15, 1988
27	395,077.87	20,741.59	23,105.05	43,846.64	March 15, 1989
28	371,972.82	19,528.57	24,318.07	43,846.64	September 15, 1989
29	347,654.75	18,251.87	24,346.17	42,598.04	March 15, 1990
30	323,308.58	16,973.70	25,624.34	42,598.04	September 15, 1990
31	297,684.24	15,628.42	25,654.07	41,282.49	March 15, 1991
32	272,030.17	14,281.58	27,000.91	41,282.49	September 15, 1991
33	245,029.26	12,864.04	27,032.07	39,896.11	March 15, 1992
34	217,997.19	11,444.85	28,451.26	39,896.11	September 15, 1992
35	189,545.93	9,951.16	28,484.19	38,435.35	March 15, 1993
36	161,061.74	8,455.74	29,979.61	38,435.35	September 15, 1993
37	131,082.13	6,881.81	30,014.36	36,896.17	March 15, 1994
38	101,067.77	5,306.06	31,590.11	36,896.17	September 15, 1994
39	69,477.66	3,647.58	33,845.51	37,493.09	March 15, 1995
40	35,632.15	<u>1,870.69</u>	<u>35,632.15</u>	<u>37,502.84</u>	September 15, 1995
<b>Total</b>		<b>\$1,173,178.59</b>	<b>\$1,000,000.00</b>	<b>\$2,173,178.59</b>	

Annex A

to

Conditional Sale Agreement

- Item 1: PACCAR Inc, a Delaware corporation, having an address at 1400 North Fourth Street, Renton, Washington 98055. (A copy of all notices should be delivered or mailed to the attention of General Counsel, P. O. Box 1518, Bellevue, Washington 98009).
- Item 2: The Equipment shall be settled for in not more than 4 Groups of units of the Equipment delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 3: The Builder warrants that the Equipment will be built in accordance with the requirements, specifications and standards set forth in Article 2 of the Conditional Sale Agreement to which this Annex A is attached (hereinafter called this Agreement) and, except in cases of articles and materials specified by the Lessee or the Guarantor and not manufactured by the Builder, warrants the Equipment to be free from defects in material and workmanship under normal use and service, the liability of the Builder under this warranty being limited, as the Lessee may elect: (i) to repair of the defects at the Builder's plant; or (ii) to replacement of a defective part; or (iii) to the cost of repair or replacement according to the AAR Code of Rules Governing Condition of and Repairs to Freight and Passenger Cars with Interchange of Traffic. The Builder shall be given reasonable opportunity to verify any claim of defects in workmanship or materials.

The foregoing warranty of the Builder shall begin at the time of delivery of a unit of the Equipment to the Vendee and terminate two years after such delivery. THE BUILDER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. The Vendee's rights under the foregoing warranty shall be its sole and exclusive remedy and

the Builder will have no liability for lost profit or for indirect, incidental, consequential or commercial losses. This warranty is expressly in lieu of all other warranties expressed or implied on the part of the Builder, and the Builder neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment, except for the patent indemnification included in Item 4 of this Annex A.

The Builder further agrees with the Vendee that neither the inspection as provided in Article 3 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or modification by the Vendee of any of its rights under this Item 3.

The Vendee agrees with the Builder that, so long as there has been no termination of the Lease or event of default thereunder, the obligations of the Builder to the Vendee under the foregoing warranty shall be deemed satisfied if the performance of said obligations by the Builder is satisfactory to the Lessee.

- Item 4: Except in cases of articles or materials specified by the Lessee or the Guarantor and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee or the Guarantor and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Vendee and, as third party beneficiary hereof, the Lessee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee, the Lessee, its or their assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. Pursuant to

the Lease, the Lessee likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee or the Guarantor and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee or the Guarantor and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Lessee every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Lessee and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to execute and deliver to the Lessee or the Vendee or the users of the Equipment all and every such further assurance as may be reasonably requested by the Lessee or the Vendee more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Builder will give notice to the Lessee of any claim known to the Builder from which liability may be charged against the Lessee under the Lease and the Vendee will give notice to the Builder of any claim known to the Vendee from which liability may be charged against the Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

- Item 5: The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$16,000,000.
- Item 6: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$10,753,808.

Annex B

to

Conditional Sale Agreement

<u>Type</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
50'7-1/4" 70-Ton Single Sheath Boxcar, XM	PC-389 2/16/74, as amended	Renton, Washington	493	WCTR 100500-100992	\$32,400	\$15,973,200	May - July 1975 at Renton, Washington

Exhibit A to AMENDMENT TO THE  
CONDITIONAL SALE AGREEMENT BETWEEN  
HELLER FINANCIAL, INC. AND FIRST  
SECURITY BANK OF UTAH, N.A., AS  
AGENT AND ASSIGNEE.

17935-F  
MAY 29 1975 10 35 AM  
INTERSTATE COMMERCE COMMISSION

AMENDMENT AGREEMENT dated as of November 1,  
1975, among WALTER E. HELLER & COMPANY (herein-  
after called the Vendee), PACCAR INC (herein-  
after called the Builder) and FIRST SECURITY  
BANK OF UTAH, N.A. (hereinafter called the  
Assignee).

WHEREAS the Vendee and the Builder have entered  
into a Conditional Sale Agreement dated as of March 1, 1975  
(hereinafter called the Conditional Sale Agreement);

WHEREAS the Builder and the Assignee have entered  
into an Agreement and Assignment dated as of March 1, 1975  
(hereinafter called the Assignment);

WHEREAS the Conditional Sale Agreement and the  
Assignment were filed and recorded with the Interstate  
Commerce Commission pursuant to Section 20c of the Interstate  
Commerce Act on May 29, 1975, at 10:35 a.m., and were assigned  
recordation numbers 7935 and 7935-D, respectively;

WHEREAS the Assignee has given its written consent  
to this Amendment as evidenced by its execution of this Amend-  
ment; and

WHEREAS the parties hereto now desire to amend the  
Conditional Sale Agreement to revise the schedule attached  
thereto as Schedule I;

NOW, THEREFORE, in consideration of the mutual

covenants and agreements herein contained, the parties hereto hereby agree as follows:

1. Schedule I to the Conditional Sale Agreement is hereby amended to read in its entirety as follows:

SCHEDULE I

Conditional Sale Agreement

Allocation Schedule on Each \$1,000,000  
Unit of Conditional Sale Indebtedness

<u>Payment Number</u>	<u>Principal Balance</u>	<u>Interest Payment</u>	<u>Allocated to Principal Recovery</u>	<u>Total Payment</u>	<u>Payment Date</u>
1	\$1,000,000.00	\$ 52,500.00	\$ 13,529.11	\$ 66,029.11	March 15, 1976
2	986,470.89	51,789.72	14,239.39	66,029.11	September 15, 1976
3	972,231.50	51,042.15	14,986.96	66,029.11	March 15, 1977
4	957,244.54	50,255.34	15,773.77	66,029.11	September 15, 1977
5	941,470.77	49,427.22	16,601.89	66,029.11	March 15, 1978
6	924,868.88	48,555.62	17,473.49	66,029.11	September 15, 1978
7	907,395.39	47,638.26	18,390.85	66,029.11	March 15, 1979
8	889,004.54	46,672.74	19,356.37	66,029.11	September 15, 1979
9	869,648.17	45,656.53	20,372.58	66,029.11	March 15, 1980
10	849,275.59	44,586.97	21,442.14	66,029.11	September 15, 1980
11	827,833.45	43,461.26	22,567.85	66,029.11	March 15, 1981
12	805,265.60	42,276.44	23,752.67	66,029.11	September 15, 1981
13	781,512.93	41,029.43	24,999.68	66,029.11	March 15, 1982
14	756,513.25	39,716.95	26,312.16	66,029.11	September 15, 1982
15	730,201.09	38,335.56	27,693.55	66,029.11	March 15, 1983
16	702,507.54	36,881.65	29,147.46	66,029.11	September 15, 1983
17	673,360.08	35,351.40	30,677.71	66,029.11	March 15, 1984
18	642,682.37	33,740.82	32,288.29	66,029.11	September 15, 1984
19	610,394.08	32,045.69	28,961.87	61,007.56	March 15, 1985
20	581,432.21	30,525.19	30,482.37	61,007.56	September 15, 1985

*RC 9/86*

(continued)

<u>Payment Number</u>	<u>Principal Balance</u>	<u>Interest Payment</u>	<u>Allocated to Principal Recovery</u>	<u>Total Payment</u>	<u>Payment Date</u>
21	\$ 550,949.84	\$ 28,924.87	\$ 25,952.33	\$ 54,877.20	March 15, 1986
22	524,997.51	27,562.37	27,314.83	54,877.20	September 15, 1986
23	497,682.68	26,128.34	22,780.48	48,908.82	March 15, 1987
24	474,902.20	24,932.37	23,976.45	48,908.82	September 15, 1987
25	450,925.75	23,673.60	21,723.37	45,396.97	March 15, 1988
26	429,202.38	22,533.12	22,863.85	45,396.97	September 15, 1988
27	406,338.53	21,332.77	22,895.01	44,227.78	March 15, 1989
28	383,443.52	20,130.78	24,097.00	44,227.78	September 15, 1989
29	359,346.52	18,865.69	24,129.85	42,995.54	March 15, 1990
30	335,216.67	17,598.88	25,396.66	42,995.54	September 15, 1990
31	309,820.01	16,265.55	25,431.27	41,696.82	March 15, 1991
32	284,388.74	14,930.41	26,766.41	41,696.82	September 15, 1991
33	257,622.33	13,525.17	26,802.90	40,328.07	March 15, 1992
34	230,819.43	12,118.02	28,210.05	40,328.07	September 15, 1992
35	202,609.38	10,636.99	28,248.51	38,885.50	March 15, 1993
36	174,360.87	9,153.95	29,731.55	38,885.50	September 15, 1993
37	144,629.32	7,593.04	29,772.07	37,365.11	March 15, 1994
38	114,857.25	6,030.01	31,335.10	37,365.11	September 15, 1994
39	83,522.15	4,384.91	40,693.42	45,078.33	March 15, 1995
40	<u>42,828.73</u>	<u>2,248.51</u>	<u>42,828.73</u>	<u>45,077.24</u>	September 15, 1995
Total		\$1,190,058.29	\$1,000,000.00	\$2,190,058.29	

2. The Assignment is hereby amended to permit the aforesaid Amendment to the Conditional Sale Agreement and the Builder hereby confirms the assignment of the Conditional Sale Agreement to the Assignee pursuant to the Assignment and agrees that the term "Conditional Sale Agreement" as used in

the Assignment shall be deemed to include the Conditional Sale Agreement as amended hereby and the Vendee hereby acknowledges notice thereof.

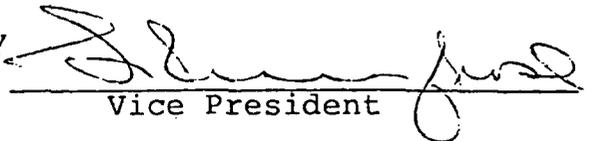
3. The Vendee will cause the Lessee promptly to file and record this Amendment Agreement in accordance with the provisions of § 16 of the Lease.

4. Except as amended hereby, the Conditional Sale Agreement and the Assignment shall remain unaltered and in full force and effect.

5. This Amendment Agreement may be executed in any number of counterparts, and such counterparts together shall constitute a single instrument. It shall not be necessary that any counterpart be signed by all the parties if each party shall sign at least one counterpart.

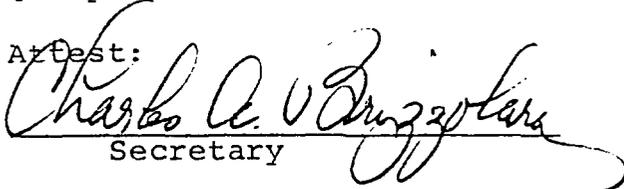
IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto by their respective officers thereunto duly authorized, and their respective corporate seals, duly attested, to be hereunto affixed as of the day and year first above written.

WALTER E. HELLER & COMPANY,

by   
Vice President

[Corporate Seal]

Attest:

  
Secretary

PACCAR INC,

by

*J. J. Kelley*  
Vice President & Treasurer

[Corporate Seal]

Attest:

*E. M. Carpenter*  
Secretary

FIRST SECURITY BANK OF UTAH, N.A.,

by

*[Signature]*  
Authorized Officer

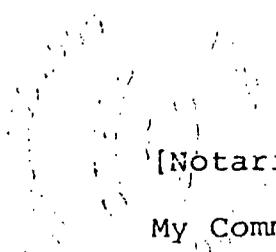
[Corporate Seal]

Attest:

*Leslie B. Fisher*  
Authorized Officer

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

On this *7<sup>th</sup>* day of *May* 1975, before me personally appeared *S. Eichenfeld*, to me personally known, who being by me duly sworn, says that he is Vice President of WALTER E. HELLER & COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

  
*Lucella Maturo*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission Expires *Jun 12, 1978*

STATE OF WASHINGTON, )  
 ) SS.:  
COUNTY OF KING, )

On this *10th* day of *November* 1975, before  
me personally appeared *J. J. Galley*, to me personally  
known, who being by me duly sworn, says that he is Vice  
*& President*  
President/of PACCAR INC, that one of the seals affixed to  
the foregoing instrument is the corporate seal of said  
Corporation, that said instrument was signed and sealed  
on behalf of said Corporation by authority of its Board  
of Directors, and he acknowledged that the execution of  
the foregoing instrument was the free act and deed of said  
Corporation.

*Virginia A. Sigler*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission Expires

*1/24/77*

STATE OF UTAH,                    )  
  )    ss.:  
COUNTY OF SALT LAKE,        )

On this 5TH day of MAY, 1978, before me personally appeared ROBERT S. CLARK, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

  
Ronda J. Osler  
Notary Public

[Notarial Seal]

My Commission Expires

November 18, 1979

The undersigned, as Lessee under the Lease dated as of March 1, 1975, between the undersigned and Walter E. Heller & Company, hereby acknowledges receipt of an executed copy of the foregoing Amendment Agreement.

WCTU RAILWAY COMPANY,

by A. B. Browder  
Vice President

The undersigned, as Guarantor under the Guaranty Agreement dated as of March 1, 1975, among the undersigned, Walter E. Heller & Company and First Security Bank of Utah, N.A., not in its individual capacity but solely as Agent, hereby acknowledges receipt of an executed copy of the foregoing Amendment Agreement.

UNION TANK CAR COMPANY,

by A. B. Browder  
Vice President