

CRAVATH, SWAINE & MOORE

130.00

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RECORDATION NO 16263 FILED 1425

FEB 13 1990 -3 00 PM

INTERSTATE COMMERCE COMMISSION

33 KING WILLIAM STREET
LONDON EC4R 9DU ENGLAND
TELEPHONE 1-806-1421
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16763

RECORDATION NO FILED 1425

FEB 13 1990 -3 00 PM

INTERSTATE COMMERCE COMMISSION

0-044A093

February 13, 1990

Trailer Train Company

Lease Financing Dated as of January 2, 1990

9.48% Conditional Sale Indebtedness

Transaction D

RECORDATION NO 16763-C FILED 1425

FEB 13 1990 -3 00 PM

INTERSTATE COMMERCE COMMISSION

Dear Ms. McGee:

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

1. (a) Conditional Sale Agreement dated as of January 2, 1990, among Trailer Train Company, Bethlehem Steel Corporation and Trinity Industries, Inc., as Sellers, and The Connecticut National Bank, as Trustee; and

(b) Agreement and Assignment dated as of January 2, 1990, among Trailer Train Company, Bethlehem Steel Corporation and Trinity Industries, Inc., as Sellers, and Mercantile-Safe Deposit and Trust Company, as Agent.

2. (a) Lease of Railroad Equipment dated as of January 2, 1990, between Trailer Train Company, as Lessee, and The Connecticut National Bank, as Trustee; and

(b) Assignment of Lease and Agreement dated as of January 2, 1990, between The Connecticut National Bank, as Trustee, and Mercantile-Safe Deposit and Trust Company, as Agent.

Counterparts by

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

1. Agent:

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

2. Trustee:

The Connecticut National Bank
777 Main Street
Hartford, Connecticut 06115

3. Lessee:

Trailer Train Company
101 North Wacker Drive
Chicago, Illinois 60606

4. Sellers:

Trailer Train Company
101 North Wacker Drive
Chicago, Illinois 60606

Bethlehem Steel Car Corporation
Freight Car Division
17 Johns Street
Johnstown, Pennsylvania 15901

Trinity Industries, Inc.
2525 Stemmons Freeway
Dallas, Texas 75207

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

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

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

There is also enclosed a check for \$30.00 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

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

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
as Agent for Trailer Train
Company

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

Encls.

REGISTRATION NO 10763 FILED 1989
FEB 13 1990 -3 00 PM
INTERSTATE COMMERCE COMMISSION

[P91624]

[CS&M Ref: 4020-143]

CONDITIONAL SALE AGREEMENT

(D)

Dated as of January 2, 1990

among

THE CONNECTICUT NATIONAL BANK,
not in its individual capacity
but solely as Trustee for the Owner,

TRAILER TRAIN COMPANY,
BETHLEHEM STEEL CORPORATION,

AND

TRINITY INDUSTRIES, INC.

Conditional Sale Agreement

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

CONDITIONAL SALE AGREEMENT dated as of January 2, 1990, among THE CONNECTICUT NATIONAL BANK, acting not in its individual capacity but solely as Trustee (together with its successors and assigns, "Trustee") acting under a Trust Agreement dated as of the date hereof ("Trust Agreement") with the OWNER NAMED IN Item 6 of Annex A hereto ("Owner"), and TRAILER TRAIN COMPANY, a Delaware corporation, BETHELHEM STEEL CORPORATION, a Delaware corporation, and TRINITY INDUSTRIES, INC., a Delaware corporation (collectively "Sellers" or severally "Seller". The last two corporations are hereinafter sometimes referred to as "Manufacturers" or a "Manufacturer").

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

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

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

WHEREAS the parties intend that terms of this Agreement shall be binding upon and inure to the benefit of the parties' respective successors and assigns and, as such, the capitalized terms used herein to define each of the parties shall also refer to the parties' respective successors and assigns (or, in the case of each Investor, its successors and registered assigns), and the capitalized terms used herein to define each of the Documents shall refer to each of such Documents as they may be modified, amended or supplemented from time to time.

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

(a) The parties hereto contemplate that the Trustee will furnish that portion of the Purchase Price (as defined in Article 4 hereof) of the Equipment as is required under subparagraph (i) of Article 4(c) hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Sellers by the Assignee pursuant to an Agreement and Assignment ("CSA Assignment") dated as of the date hereof between the Sellers and the Assignee, as agent.

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

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

ARTICLE 2

Construction and Sale

Pursuant to this Agreement, each Seller shall sell and deliver its Equipment to the Trustee, and the Trustee will purchase from such Seller and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among such Seller, the Owner, the Trustee

and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, required by the Association of American Railroads (except as otherwise provided in Annex B hereto) reasonably interpreted as then being applicable to each such unit of Equipment.

ARTICLE 3

Inspection and Delivery

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

(b) Notwithstanding paragraph (c) below, any Equipment not delivered as a result of paragraph (a) of this Article 3, and any Equipment not delivered and accepted hereunder on or prior to March 28, 1990, by reason of failure of condition as provided in said paragraph (a) or causes set forth in said paragraph (c) or otherwise, shall

be excluded from this Agreement, and the Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. Pursuant to the Participation Agreement, the Lessee has agreed to purchase such excluded Equipment, and any Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 thereof, from the appropriate Seller as provided in Paragraph 1 of the Participation Agreement.

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

(d) The Equipment shall be subject to inspection and approval by the authorized inspectors of the Trustee (who pursuant to Section 2.01 of the Lease will be employees or agents of the Lessee) and each Manufacturer shall grant to such authorized inspectors reasonable access to its Equipment. Each Manufacturer will inspect the materials used in the construction of its Equipment in accordance with the standard quality control practices of such Manufacturer. Each unit shall be presented to an inspector of the Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Trustee (who may be an employee of the Lessee) shall execute and deliver to the appropriate Seller a certificate of acceptance ("Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Trustee and are marked in accordance with Article 9 hereof; provided, however, that such Manufacturer shall not thereby be relieved of its warranties referred to in Article 13 hereof. Pursuant to Section 2.01 of the Lease, the Lessee has agreed not to accept any Units thereunder or under the CSA after it has actual knowledge of an Event of Default under the Lease or of an event which with the lapse of time or giving of notice or both would constitute an Event of Default of the Lease.

(e) On delivery and acceptance as aforesaid of each such unit of its Equipment at the place specified for delivery, the Seller 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 Manufacturer shall not thereby be relieved of its warranties referred to in Article 13 hereof.

(f) Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Trustee of any unit of Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Trustee any legal or beneficial right or interest in such unit or (except as provided in of Article 4(a) hereof) to impose on the Trustee any liability, obligation or responsibility with respect thereto.

ARTICLE 4

Purchase Price and Payment

(a) 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 appropriate Seller, the Trustee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in such Seller's invoice or invoices delivered to the Trustee (which shall include any applicable freight charges and sales taxes) and, if the Purchase Price is other than the base price or prices set forth in Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Trustee (such invoice or invoices being hereinafter called "Invoices"). If on the date of delivery and acceptance of any unit or units of Equipment hereunder, the aggregate Purchase Price of such unit or units and all units theretofore delivered and accepted hereunder would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 4 of Annex A hereto (or such higher amount as the Owner may at its option agree to prior to delivery of any unit or units of such Equipment that, but for such agreement, would be excluded from this Agreement), the appropriate Seller (and any assignee of such Seller, including, if applicable, the Agent) and the Trustee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Trustee, as will, after giving effect

to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than such Maximum Purchase Price (or such higher amount as aforesaid) and the Trustee shall take such other steps, including the execution of instruments of transfer, as may be reasonably requested by the Seller or the Lessee for the purpose of acknowledging and perfecting the respective interests of such Seller and the Lessee in any unit of Equipment so excluded, and the Trustee shall have no further obligation or liability in respect of units so excluded.

(b) The Equipment shall be settled for in such number of groups of units of Equipment delivered to and accepted by the Trustee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called "Group"). The term "Closing Date" with respect to any Group shall mean such date (not earlier than January 30, 1990, and not later than March 28, 1990, such later date being herein called the "Cut-Off Date"), occurring not more than five business days following presentation by the appropriate Seller to the Trustee of the Invoices and of the Certificate or Certificates of Acceptance for such Equipment and written notice thereof by the Seller to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Trustee and the Assignee at least four business days prior to the Closing Date designated therein. The term "business day" as used herein means any calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Baltimore, Maryland, Chicago, Illinois, New York, New York, Cleveland, Ohio, or the city and state in which the Trustee maintains its principal place of business are authorized or obligated to remain closed. The closing on each Closing Date shall take place at the offices of Cravath, Swaine & Moore, New York, New York.

(c) Subject to the terms and conditions hereof and of the Participation Agreement, the Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby agrees to pay in immediately available funds to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(i) on the Closing Date with respect to each Group
(A) an amount equal to 20% of the per unit Purchase Price of the units in such Group plus (B) if the Owner exercises its option pursuant to paragraph (a) of this Article 4, the amount, if any, by which (x) 80% of the Purchase Price of the Equipment for which settlement has theretofore and is then being made, as set forth in

the Invoice or Invoices therefor (said invoiced prices being herein called the "Invoiced Purchase Prices"), exceeds (y) the Maximum CSA Indebtedness specified in Item 5 of Annex A and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (C); and

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

(d) The portion of the Purchase Price payable pursuant to subparagraph (ii) of the preceding paragraph ("CSA Indebtedness") shall be payable in the installments and on the dates shown in Schedule I hereto commencing August 4, 1993, to and including February 4, 2010 (or if any such date is not a business day, on the next succeeding business day). The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.48% per annum. Such interest shall be payable, to the extent accrued, on August 4, 1990, and thereafter on each February 4 and August 4 to and including February 4, 2010. The installments of principal payable on each payment date shall be calculated so that the amount and allocation of principal and interest payable on each payment date shall be substantially in proportion to the amount and allocation of principal and interest on such payment date set forth in Schedule I hereto and the aggregate of such installments of principal will completely amortize the remaining CSA Indebtedness. The Vendor will furnish to the Trustee and the Lessee promptly after the last Closing Date a schedule, in such number of counterparts as shall be requested by any such party, showing the respective amounts of principal and interest payable on each Payment Date.

(e) Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months except that interest payable on the first interest payment date hereunder shall be calculated on the basis of a year of 365 days.

(f) The Trustee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid in respect of the Equipment after the same shall have become

due and payable pursuant to the terms hereof at a rate 1% higher than the rate applicable to timely payments.

(g) All payments provided for in this Agreement shall be made in immediately available funds in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. If any date for a payment hereunder is not a business day, the payment otherwise payable on such date shall then be payable on the following business day, and no interest shall be payable for the period from and after the scheduled date for payment thereof to such following business day. Except as provided in Article 7 hereof, the Trustee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

(h) Notwithstanding any other provisions of this Agreement, including, without limitation, Articles 15 and 16 hereof but without limiting the effect of Article 21 hereof, it is understood and agreed by the Vendor that the liability of the Trustee for all payments to be made by it under and pursuant to this Agreement in respect of the Equipment and for all performance obligations (other than the payments called for by subparagraph (i) of paragraph (c) of this Article and as provided in the proviso to paragraph (c) of Article 12 hereof) under and pursuant to this Agreement in respect of the Equipment, shall not exceed an amount equal to, and shall be payable only out of, the income and proceeds from the Equipment. As used herein the term "income and proceeds from the Equipment" shall mean (i) if an event of default shall have occurred under Article 15 hereof and while it shall be continuing so much of the following amounts as are indefeasibly received by the Trustee (or any assignee of the Trustee) at any time after any such event of default and during the continuance thereof: (a) all amounts of rental payable pursuant to the Lease and all amounts in respect of Casualty Occurrences paid for or with respect to the Equipment pursuant to the Lease and (b) any and all other payments or proceeds received pursuant to the Lease (except sums which by the express terms of the Lease are payable directly to the Owner or the Trustee pursuant to Sections 6, 9 and 18 of the Lease) or for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) or otherwise payable to the Trustee

pursuant to the Lease as are indefeasibly received by the Trustee or any assignee of the Trustee and as shall equal the portion of the CSA Indebtedness due and payable on the date such amounts so received were required to be paid pursuant to the Lease or as shall equal any other payments (including payments in respect of Casualty Occurrences and Terminations) then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Trustee or any assignee of the Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness and/or interest thereon due and payable by the Trustee on the date on which amounts received by the Trustee or any assignee of the Trustee were required to be paid pursuant to the Lease or which exceeded any other payments including payments in respect of Casualty Occurrences and Terminations and payable under this Agreement at the time such amounts were payable under the Lease. The Vendor agrees that if it obtains a judgment against the Trustee for an amount in excess of the amounts payable by the Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount (and, if legally permitted, will cause the docket to reflect the limitations on its right to execute under such judgment), it will not bring suit against the Trustee for any sums in addition to the amounts payable by the Trustee pursuant to said limitations (or obtain a judgment, order or decree against the Trustee for any relief other than the payment of money) except as may be required by applicable rules of procedure to enforce against the Equipment, the Lessee and the Lease (rather than against the Trustee personally), by appropriate proceedings against the Trustee at law or in equity or otherwise, the obligation to make the payments to be made pursuant to this Agreement or any other payments or performance obligations due to the Vendor under this Agreement and it will not seek any deficiency judgment after completion of execution. Nothing contained herein limiting the liability of the Trustee shall derogate from the right of the Vendor to proceed against the Equipment or the Lessee as provided for herein or in the Lease or the Consent for the full unpaid Purchase Price of the Equipment and interest thereon and any and all other payments and obligations under this Agreement.

ARTICLE 5

Security Interest in the Equipment

(a) The Vendor shall and hereby does retain a security interest in the Equipment until the Trustee shall have made all its payments under this Agreement notwithstanding any provision of this Agreement limiting the liability of the Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Trustee and the Lessee as provided in this Agreement and the Lease; it being understood that, subject thereto, title to the Equipment (upon delivery and acceptance thereof) shall pass to and remain in the Trustee. Accordingly, after all payments due or to become due hereunder in respect of the Equipment shall have been completed and fully made to or for the account of the Vendor, (a) such payments shall be deemed to represent the discharge in full of the Vendor's security interest in the Equipment at such time, (b) any moneys remaining in the hands of the Vendor after providing for all outstanding amounts due and payable hereunder shall be paid to the Trustee, and (c) this agreement shall terminate as to the Vendor and the Vendor shall execute for record in public offices such instrument or instruments in writing as shall be reasonably requested by the Trustee in order to discharge of record the security interest of the Vendor in, and to make clear upon public records the Trustee's unencumbered title to, the units of the Equipment under the laws of any jurisdiction; provided, however, that until that time a security interest in the Equipment shall be and remain in the Vendor, notwithstanding the possession and use thereof by the Trustee pursuant to the terms of this Agreement.

(b) The Trustee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeiture or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificates within a reasonable time after written demand by the Trustee.

(c) The term "Equipment" as used in this Agreement shall not include any special devices, racks

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

ARTICLE 6

Taxes

(a) Whether or not any of the transactions contemplated hereby are consummated, the Trustee agrees to pay, and to indemnify and hold harmless the Vendor, the Investors and their respective successors, assigns, agents and servants (the "Indemnified Persons") on an after-tax basis from all Taxes (as defined in Section 6 of the Lease) excluding, however: (i) any Taxes (other than sales or use taxes) of the United States or of any state or political subdivision thereof, or of any foreign jurisdiction or of any subdivision thereof, imposed on or measured by gross receipts, gross or net income (including, without limitation, withholding taxes on gross income, capital gains taxes, alternative minimum taxes and taxes measured by tax preference items) excess profits of such Indemnified Person, or Taxes on or measured by capital, intangibles, stock value or net worth or other status of such Indemnified Person, in the case of franchise or doing business taxes; provided, however, that the provisions of the foregoing clause (i) shall not be interpreted to limit the Trustee's obligation to pay any amount hereunder on an after-tax basis; (ii) any such Taxes imposed on or measured by any fees or compensation received by the Indemnified Person; (iii) any Taxes (other than sales or use taxes) which are imposed on or measured by the gross receipts, gross or net income of the Indemnified Person if and to the extent that

such Taxes are specifically in substitution for or are specifically designed to reduce the Taxes payable by such Indemnified Person which the Trustee has not agreed to pay or indemnify against pursuant to this Article 6; (iv) any taxes imposed on the Indemnified Person resulting from the gross negligence or willful misconduct of such Indemnified Person; (v) any Taxes imposed as a result of (x) any voluntary transfer or voluntary disposition by such Indemnified Person (including a taxable transfer under Section 338 of the Code, if applicable) of any interest in the CSA, the Lease, any unit of Equipment or any of such Indemnified Person's rights or obligations under the Documents, in each case other than (i) pursuant to the exercise of any remedies in connection with any Event of Default under the Lease, or (ii) in connection with a Casualty Occurrence or Termination or (y) any involuntary transfer or involuntary disposition of any such interests (i) resulting from the bankruptcy of the Indemnified Person or (ii) resulting directly from events unrelated to the transactions contemplated by the Documents; (vi) any Taxes imposed with respect to events occurring or matters arising after the later of (a) the satisfaction of the CSA Indebtedness, or (b) the expiration or earlier termination of the term of the CSA, except to the extent directly attributable to a failure of the Trustee to fully discharge its obligations under the CSA; (vii) any Taxes which are included in the Purchase Price, provided that such Taxes have been remitted to the proper taxing authorities; (viii) any Taxes which are imposed on any Indemnified Person to the extent resulting directly from the failure to perform any requirement imposed with respect to any return otherwise required to be filed by any such Indemnified Person (or any of its Affiliates) without regard to the transactions contemplated by the Documents, in connection with the preparation or filing of tax returns, the payment of its Taxes or the conduct of any proceeding in respect thereof, except to the extent attributable to the failure of the Trustee to perform its obligations under this Article 6 or to perform its duties and responsibilities pursuant to the Documents including, without limitation, the obligation to make payments and prepare returns provided in this Article 6; (ix) Taxes imposed on an Indemnified Person to the extent such Taxes would not have been imposed upon such Indemnified Person (or any of its Affiliates) but for any failure of such Indemnified Person or such Affiliate to comply with (a) certification, information, documentation, reporting or other similar requirements (each being a "Requirement") concerning the nationality, residence, identity or connection with the jurisdiction imposing such Taxes, if such compliance is required by statute or by regulation of the jurisdiction imposing such Taxes as a

precondition to relief or exemption from such Taxes and the Indemnified Person or its Affiliate was eligible to comply with such Requirement or (b) any other Requirements under the Tax laws or regulations of the jurisdiction imposing such Taxes that would establish entitlement to otherwise applicable relief or exemption from such Taxes, and the Indemnified Person or such Affiliate was eligible to comply with such Requirement, provided that the exclusion set forth in this subclause (ix) shall not apply (1) if such failure to comply was due to a failure of the Trustee (y) timely to notify such Indemnified Person or such Affiliate of such Requirement or (z) to provide reasonable assistance in complying with such requirement or (2) if, in order to comply with such Requirement, the Indemnified Person or such Affiliate would be required to make any inaccurate statement or (3) if by complying with such Requirement the Indemnified Person or such Affiliate might suffer any material adverse consequences for which the Indemnified Person or such Affiliate is not indemnified by the Trustee; (x) any Taxes to the extent such Taxes would have been imposed on an Indemnified Person even if it had not engaged in activities related to the transactions contemplated by the Documents; (xi) any Taxes for which the Trustee has actually fully paid or reimbursed, in accordance with the terms of any of the Documents, the Indemnified Person entitled to payment under this Article 6; and (xii) penalties, interest or additions to tax resulting from Taxes which are not indemnifiable hereunder; provided, however, that this exclusion (xii) shall not apply to the pro rata portion of any penalties, interest or additions attributable to Taxes indemnifiable hereunder; provided, however, that except as provided below, the Trustee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in the next succeeding paragraph; provided further, however, that if the Trustee is obligated to make a payment under this Article 6 by reason of a breach by the Indemnified Person or any Affiliate thereof of any such Indemnified Person's representations, warranties, duties and obligations under any of the Documents to which it is a party, this Article 6 shall not be construed to limit the Trustee's ability to include the amount of such obligation as damages due and owing by reason of such breach, and the liability of the Trustee to indemnify hereunder shall in no way be construed as limiting any rights or remedies to which the Trustee may otherwise be entitled in the event of any such breach.

(b) Except as provided herein, the Trustee shall pay all Taxes subject to indemnification under this Article 6 for which it is required to file a return prior to the latest time permitted by the relevant taxing authority for

timely payment. In the case of a Tax subject to indemnification under this Article 6 for which the Trustee is required to file a return, when the Trustee resists payment in accordance with this Article 6, the Trustee shall pay such Tax (in the amount finally determined to be owing in such contest) prior to the latest time permitted by the relevant taxing authority for timely payment after a Final Determination (as defined below). In the case of a Tax subject to indemnification under this Article 6 for which no return is required to be filed by the Trustee, the Trustee shall pay such Tax to the appropriate Indemnified Person within 15 days after receipt of a demand in writing that specifies in reasonable detail the payment and the facts upon which the right to payment is based, but not prior to the later of (i) 15 days before the due date (ignoring extensions of time) for payment of such Tax by the Indemnified Person, and (ii) in the case of a Tax whose payment is being contested in accordance with this Article 6, a Final Determination (which shall mean (i) a decision, judgment, decree or other order by any court of competent jurisdiction that resolves the matter, which decision, judgment, decree or other order has become final (i.e., the earliest of when all allowable appeals have been exhausted by either party to the action or the time for filing such appeal has expired or such Indemnified Person has notified the Trustee in writing that it does not intend to take such appeal, it being understood that such Indemnified Person shall not be required to pursue such appeal), (ii) a closing agreement entered into under Section 7121 of the Code (or any successor provision) or any other settlement agreement entered into in connection with administrative or judicial proceedings, in any case with the Trustee's consent, (iii) the expiration of the time for instituting an initial suit with respect to a claimed deficiency or for instituting a claim for refund, or, if a refund claim was filed, the expiration of the time for instituting suit with respect thereto, or (iv) the point in time when the Indemnified Person is no longer required to contest (or allow the Trustee to contest) the imposition of such Tax pursuant to this Article 6).

(c) If any written claim is made against any Indemnified Person for any Taxes indemnified against under this Article 6, such party shall promptly notify the Trustee in writing. If reasonably requested by the Trustee in writing within 60 days of receipt of such notice (or, if sooner, and if such date is disclosed to the Trustee in the Indemnified Person's notification to the Trustee, on or before the last date upon which a contest of such Tax can be initiated), such Indemnified Person shall, upon receipt of any indemnity satisfactory to it for all costs, expenses,

losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Trustee (it being understood that such indemnity is not intended to expand the scope of the Trustee's indemnification obligations with respect to liabilities specifically dealt with in this Article 6), contest in good faith the validity, applicability or amount of such Taxes by, in the case of a contest involving only Taxes for which the Trustee is liable (a "Trustee Controlled Contest"), in the Trustee's sole discretion, or, in the case of any other contest (an "Indemnified Person Controlled Contest"), in such Indemnified Person's sole discretion, (a) resisting payment thereof, if possible, (b) not paying the same except under protest, if protest is necessary or proper, or (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both; provided, however, that in no event will such Indemnified Person be required to contest or continue to contest the imposition of any Tax for which the Trustee is obligated pursuant to this Article 6 unless (w) no Event of Default shall have occurred and be continuing, (x) such Indemnified Person and the Owner shall have reasonably determined that the action to be taken will not result in any material danger of sale, forfeiture or loss of, or the creation of any Lien (except if the Trustee shall have adequately bonded such Lien, or otherwise made provisions to protect the interests of such Indemnified Person in a manner reasonably satisfactory to such Indemnified Person) on any Item of Equipment, (y) if such contest shall involve payment of the claim, the Trustee shall advance the amount thereof plus (to the extent indemnified under this Article 6) interest, penalties and additions to tax with respect thereto to such Indemnified Person on an interest-bearing basis in accordance with the next sentence of this paragraph (c) and (z) the amount of all claims with respect to the audit at issue exceeds \$5,000. If an Indemnified Person contests Taxes by making payment thereof and attempting to obtain a refund, the Trustee shall advance to such Indemnified Person the amount that the Trustee would otherwise be required to pay to such Indemnified Person pursuant to this Article 6 if a Final Determination were made that such Indemnified Person is liable for the amount of the payment made. Each such advance shall bear interest at the rate necessary to prevent such advance from being characterized as a below-market loan under Section 7872 of the Code (or any successor provision) which interest payments shall be due in arrears at the conclusion of each six month interest period. Unless the Indemnified Person has repaid any advance pursuant to the last sentence of this

paragraph (c), on the day that is ten years after the Trustee advances funds to the Indemnified Person pursuant to this Article 6 the Indemnified Person shall repay to the Trustee any such advance; provided, however, that if the Indemnified Person is required to repay such advance prior to a Final Determination of the underlying liability for the Taxes for which such advance was made, the Trustee shall be obligated, within 5 days of such repayment, to advance to the Indemnified Person an amount equal to such repayment on an interest-free basis, and at no net after-tax cost to such Indemnified Person.

(d) In a Trustee Controlled Contest, the Trustee may also contest, if permitted by applicable law, at its own expense, the validity, applicability or amount of such Taxes in the name of such Indemnified Person; provided, however, that no proceeding or actions relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such Indemnified Person in any such proceeding or action) (a) without the prior written consent of such Indemnified Person, such consent not to be unreasonably withheld (provided that it is understood that such Indemnified Person may impose reasonable conditions relating to the commencement and conduct of such contest as a condition to granting its consent) and (b) unless the conditions stated in clauses (w), (x) and (y) of the first sentence of paragraph (c) of this Article 6 are satisfied. In the case of any contest brought by the Trustee in accordance with the preceding sentence, the Indemnified Person shall cooperate with the Trustee by, at the Trustee's cost, providing to the Trustee all documents, reports and other information reasonably necessary in connection therewith and not involving the disclosure of proprietary information of a competitive or sensitive nature.

(e) An Indemnified Person will in good faith consult with the Trustee and its counsel regarding the conduct of any administrative or judicial contest and will not enter into any settlement or compromise with respect to any Tax that such Indemnified Person is required to contest hereunder that would give rise to an indemnifiable Tax under this Section without the Trustee's prior written approval. In the event the Indemnified Person effects a settlement or compromise of any contest, or otherwise terminates any such contest, without such prior written consent of the Trustee, such Indemnified Person shall pay to the Trustee an amount which shall equal the amounts theretofore paid by the Trustee pursuant to this Article 6 in respect of such claim; provided, however, that such amounts shall not include costs and expenses paid by the Trustee relating to such contest.

(f) If in the course of contesting a claim for Taxes the Trustee believes that the appropriate taxing authority might compromise a proposed adjustment, the Trustee shall advise the Indemnified Person of the terms of the settlement proposal that the Trustee is then willing to make, and upon receipt of such notice the Indemnified Person will explore such settlement proposal with the relevant taxing authority. If a settlement proposal is acceptable to both the Trustee and the taxing authority, the Indemnified Person shall agree to the settlement proposal; provided, however, that the Indemnified Person shall not be obligated to formally propose or agree to a settlement if the Indemnified Person agrees that the amount of any Taxes in respect of such proposed claim shall be treated as the amount of such Taxes which would have been required if the settlement proposal had been made and accepted (in which case such agreement by the Indemnified Person shall be treated as a Final Determination and the Trustee shall indemnify the Indemnified Person for such amount); provided further, however, that an Indemnified Person may in its sole discretion accept or reject any such settlement proposal unless the Trustee, after receiving 5 days prior written notice from such Indemnified Person regarding the terms of such settlement proposal, acknowledges liability for the claim that is the subject of such settlement proposal. Notwithstanding anything contained in this paragraph (f), an Indemnified Person will not be required to contest the imposition of any Tax or agree to the settlement of any claim it would otherwise be required to contest or settle if such Indemnified Person (a) shall waive its right to indemnity under this Section 6 with respect to such Tax (and any related claim and any claim and any related claim made by a taxing authority with respect to other taxable years that is based, in whole or in part, on the resolution of such claim or such related claim, the contest of which is materially prejudiced by the resolution of such proposed adjustment, it being understood that the mere settlement of the claim (in the absence of, for example, legal authority, administrative practice or other similar authority to the contrary) shall not be considered materially prejudicial), and (b) shall pay to the Trustee any amount previously paid or advanced by the Trustee pursuant to this Article 6 with respect to the claim for such Tax that is being contested (which amount shall not include costs and expenses previously paid by the Trustee with respect to such contest).

(g) Upon a Final Determination of any contest in respect to which the Trustee shall have advanced funds to an Indemnified Person then, to the extent such Final Determination is adverse, the Trustee shall indemnify such Indemnified Person to the extent provided by this Agreement, and within 30 days after such Final Determination, such Indemnified Person shall offset from any funds advanced by the Trustee the amount for which the Trustee is required to indemnify such Indemnified Person and then shall, if any excess remains, repay to the Trustee any funds advanced by the Trustee, together with any related interest received (or saved) by such Indemnified Person as a result of such refund or Credit to the extent of such excess.

(h) Any payment which the Trustee shall be required to make to or for the account of any Indemnified Person with respect to any Tax which is subject to indemnification under this Section shall (A) reflect any actual current savings (but only up to the amount of the Tax for which such Indemnified Person is being indemnified) of the Indemnified Person resulting by way of deductions, credits or other tax benefits attributable to the payment (or accrual) of such indemnified Tax unless such deduction or credit or other tax benefit was taken into account in computing the payment which the Trustee is required to make with respect to any Tax which is subject to indemnification under this Section by way of a deduction or credit against such Tax and (B) include the amount necessary to hold the Indemnified Person harmless on an after-tax basis from the amount of any federal, state, local or foreign taxes required to be paid by the Indemnified Person as the result of any such payment (it being understood that if the amount of such federal, state, local or foreign taxes payable, or the amount of any tax savings realized by an Indemnified Person as a result of making any payment required to be made to the Trustee pursuant to this paragraph (h) is less than the amount that would have been payable or realized had such Indemnified Person not been in a net operating loss position or subject to minimum taxes (or other similar situations reducing such taxes payable by such Indemnified Person), then appropriate payments shall be made by the Trustee (or, if applicable, by such Indemnified Person) to such Indemnified Person (or, if applicable, to the Trustee) in subsequent years so that such Indemnified Person (or, if applicable, the Trustee) receives the full benefit of payments otherwise payable hereunder). If, by reason of any Tax payment made to or for the account of an Indemnified Person by the Trustee pursuant to this Article 6, such Indemnified Person currently or subsequently

receives a refund (or any amount representing interest thereon) or realizes a tax benefit, savings, deduction or credit (including foreign tax credit) not previously taken into account in computing such payment, such Indemnified Person shall promptly pay to the Trustee an amount equal to the sum of (I) the actual net reduction in Taxes, if any, realized by the Indemnified Person which is attributable to such deduction or credit (or, if applicable, the amount of such refund or interest net of expenses) and (II) the actual reduction in any Taxes realized by the Indemnified Person as the result of any payment made by the Indemnified Person pursuant to this sentence; provided, however, that the Indemnified Person shall not be obligated to make payment pursuant to this Article 6 to the extent that the amount of such payment would exceed (x) the amount of all prior payments excluding all costs, expenses and advances relating to any contest made by the Trustee pursuant to this Article 6, less (y) the amount of all prior payments by the Indemnified Person to the Trustee hereunder (any such excess to be carried forward to reduce any subsequent obligations of the Trustee to indemnify the Indemnified Person); provided further, however, that the subsequent loss of any such tax benefit, savings, deductions or credit realized by the Indemnified Person shall be treated as a Tax for which the Lessee must indemnify such Indemnified Person pursuant to paragraph (a) of this Article 6 without regard to exceptions (i), (v), (vi) and (x) therein. For purposes of the preceding sentence, items of foreign tax of any Indemnified Person shall be deemed to be utilized by the Indemnified Person as credits or deductions for any taxable year in accordance with the following priorities:

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

Second, all available foreign taxes attributable to any leasing or similar transaction entered into by the Indemnified Person or any member of an affiliated group (within the meaning of Section 1504 of the Code) filing a consolidated Federal income tax return which includes the income of such Indemnified Person (the "Indemnified Group") with a person other than the Trustee and for which such member of such Indemnified Group was indemnified or held harmless by anyone in such transaction (other than a transaction (x) described in the next clause of this sentence or (y) in which the foreign tax credit ordering rules provide that foreign tax credits attributable to such

transaction shall be taken into account ahead of other transactions in which such member of the Indemnified Group is being indemnified) on a pari passu basis with any foreign tax credits attributable to any tax payment made to or for the account of the Indemnified Person pursuant to this Article 6; and

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

(i) In case any report or return is required to be made with respect to any obligation of the Trustee under this Article 6 or arising out of this Article 6, the Trustee shall either make such report or return in such manner as will show the interests of the Indemnified Person in the Equipment and, if requested, shall promptly provide a copy thereof to the Indemnified Person or if not permitted by law to file the same shall promptly notify the Indemnified Person of such requirement and shall make such report or return in such manner as shall be satisfactory to the Indemnified Person. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Trustee.

(j) If an Indemnified Person has actual notice that a report, return, statement, or other information is required with respect to any Tax other than Taxes required to be reported on a return in the name of such Indemnified Person or any of its Affiliates reporting transactions other than those contemplated by the Documents, or that a taxing authority has made a claim for payment of such Tax, it shall promptly so notify the Trustee, shall furnish the Trustee with copies of the relevant portions of all written communications from any taxing authority relating to such Tax, and, if requested by the Trustee, shall request such taxing authority to contact the Trustee regarding such information relating to the transactions contemplated by the Documents.

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

(l) All of the obligations of the Trustee under this Article 6 shall survive and continue, notwithstanding payment in full of all amounts due under this Agreement. All amounts payable by the Trustee pursuant to this Article 6 shall be payable directly to the Indemnified Person entitled to indemnification, except to the extent paid to a governmental agency or taxing authority.

(m) Notwithstanding anything in this Agreement or in any other Documents to the contrary, if on the date any payment is required to be made by either party under this Article 6, there shall have occurred and be continuing a Default or an Event of Default with respect to the obligations of the payee hereunder, then such payment shall not be required unless and until the payee shall have cured such Default or Event of Default.

ARTICLE 7

Maintenance; Terminations and Casualty Occurrences; Insurance

(a) The Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment (including any Parts installed on or replacements made to any unit and considered an accession thereto as provided in Section 9 of the Lease) in good operating order, repair and condition, ordinary wear and tear excepted.

(b) In the event that the Lease is terminated pursuant to either Section 7.06 or Section 7.12 of the Lease as to any unit of the Equipment ("Surplus Termination") or pursuant to Section 7.08 of the Lease as to the units of any Type of Equipment ("Buy Out Termination", a Surplus Termination or a Buy Out Termination is sometimes hereinafter called a "Termination") or any unit of Equipment shall suffer a Casualty Occurrence (as defined in Section 7.01 of the Lease) during the term of this Agreement, the Trustee shall, promptly after it shall have received written notice from the Lessee of a Termination or that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the Casualty Payment Date (as defined in Section 7.01 of the Lease) or on the Termination Date (as defined in the Lease) in the case of Termination (each such date hereinafter called a "Settlement Date") next succeeding such notice or information, the Trustee shall, subject to the limitations contained in

paragraph (h) of Article 4 hereof, pay to the Vendor (i) in the case of a Casualty Occurrence, an amount equal to the CSA Casualty Value (as hereinafter defined in paragraph (f) of this Article 7) of such unit suffering a Casualty Occurrence as of such Settlement Date, and (ii) in the case of a Termination, an amount equal to the CSA Termination Value (as hereinafter defined in paragraph (g) of this Article 7) of such unit subject to such Termination as of such Settlement Date. The Trustee shall file, or cause to be filed, with the Vendor a certificate setting forth the CSA Casualty Value or CSA Termination Value, as the case may be, of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal, if any, due on such date) on the date of such payment to prepay without penalty or premium, except as may be in the case of a Termination, (ratably in accordance with the unpaid balance of each installment) the CSA Indebtedness, together with all unpaid and accrued interest thereon. The Vendor will promptly furnish to the Trustee, the Owner, the Investors and the Lessee a revised schedule of payments of principal and interest with respect to the CSA Indebtedness thereafter to be made. In the event of the requisition of use by any governmental authority of any unit of the Equipment not constituting a Casualty Occurrence, all of the Trustee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

(d) Upon payment by the Trustee to the Vendor of (i) the CSA Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence or (ii) the CSA Termination Value of any unit subject to a Termination, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Trustee (or, in the case of a Buyout Termination, as such term is defined in Section 7.08 of the Lease, the Lessee), without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Trustee (or, in the case of a Buyout Termination, the Lessee), will execute and deliver to the Trustee (or, in the case of a Buyout Termination, the Lessee), at the expense of the Trustee (or, in the case of a Buyout Termination, the Lessee), an appropriate instrument confirming the release of the Vendor's security interest in such unit, in recordable form, in order that the Trustee (or, in the case of a Buyout Termination, the Lessee) may make clear upon the public records the full title of the Trustee (or, in the case of a Buyout Termination, the Lessee) to such unit.

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

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

(g) The CSA Termination Value of any unit as of any Settlement Date shall be an amount equal to (i) as to any Surplus Termination on or after the date 12.75 years after August 28, 1989, the CSA Casualty Value thereof as of such date; (ii) as to any Surplus Termination prior to the

the sum of (x) the CSA Casualty Value thereof as of such date and (y) a prepayment premium equal to the Make-Whole Premium (as such term is defined in paragraph (h) of this Article 7); (iii) as to any Buy Out Termination on or after February 27, 2007, the CSA Casualty Value thereof as of such Date.

(h) "Make-Whole Premium" shall mean a premium equal to the excess, if any, of (i) the present value, as of the date of prepayment of the CSA Indebtedness in question, of the respective installments of principal of and interest on such CSA Indebtedness that, but for such prepayment, would have been payable on the payment dates after such prepayment over (ii) the principal amount of such prepayment. Such present value shall be determined by discounting the amounts of such installments from their respective payment dates to the date of prepayment at a rate equal to 0.50% per annum over the Treasury Rate. "Treasury Rate" shall mean the yield on a hypothetical United States Treasury security with a constant maturity matching the then remaining average life to maturity of the CSA Indebtedness in question. The hypothetical Treasury security is to be derived by referring to the Federal Reserve Board's Statistical Release H-15 (519) (or its successor publication) most recently available next preceding (by not more than 10 nor less than 5 business days) the date of the prepayment of such CSA Indebtedness. If there is a Treasury constant maturity listed in said Federal Reserve H-15 Release with a maturity equal to the then remaining average life to maturity of such CSA Indebtedness, then the yield on such Treasury security shall be the Treasury Rate. If no such Treasury constant maturity exists, then the Treasury security with a constant maturity closest to and greater than the then remaining average life to maturity of such CSA Indebtedness, shall be used, along with the Treasury security with a constant maturity closest to and less than the remaining average life to maturity of such CSA Indebtedness, in the following formula in order to calculate the Treasury Rate:

$$TR = YA + (RALM-MA) \times \frac{(YB-YA)}{(MB-MA)}$$

where: TR = Treasury Rate.
RALM = Remaining Average life to Maturity of such CSA Indebtedness.
A = Treasury security with a maturity closest to and less than RALM.
B = Treasury security with a maturity

closest to and greater than RALM.
YA = Yield to Maturity of Security A.
YB = Yield to Maturity of Security B.
MA = Maturity of Security A.
MB = Maturity of Security B.

If there shall be no Treasury security with a constant maturity less than the then remaining average life to maturity of such CSA Indebtedness, then Treasury Rate shall mean the yield on the Treasury security with the shortest Treasury constant maturity. If said Federal Reserve H-15 Release or a successor publication refers to no applicable yield on Treasury securities, then the Treasury Rate shall be determined in any manner mutually acceptable to the Lessee and the holders of such CSA Indebtedness.

(i) The Trustee shall at all times while this CSA is in effect maintain or cause to be maintained, at its own expense, the insurance described in Section 7.13 of the Lease.

ARTICLE 8

Reports and Inspections

The Trustee will furnish to the Vendor, on or before May 1 in each year, commencing with the calendar year 1990 a copy of the report filed with the Trustee pursuant to Section 8.01 of the Lease. The Vendor shall have the right by its agents to inspect the Equipment and the records of the Trustee with respect thereto at such reasonable times as the Vendor may request.

ARTICLE 9

Marking of Trust Equipment

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

(b) The Trustee will not place or permit any unit of Equipment to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or cause to be replaced promptly any such markings which may be removed,

defaced, obliterated or destroyed. The Trustee shall not change, or permit to be changed, the identifying numbers to be substituted therefor, except upon compliance with the condition of Section 5 of the Lease.

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

ARTICLE 10

Compliance with Laws and Rules

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

ARTICLE 11

Possession of Equipment

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

(b) The Trustee hereby agrees that the Lease, and the rights of the Trustee to receive rentals and other payments due and to become due thereunder (except for payments payable directly to the Owner or the Trustee pursuant to

Sections 6, 9 and 18 of the Lease), shall be subject and subordinate to this Agreement and to the rights of the Vendor hereunder and under the Consent.

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

ARTICLE 12

Discharge of Liens

(a) The Trustee will pay or discharge any and all sums claimed by any party from, through or under the Trustee, the Owner or their successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the "income and proceeds from the Equipment" (as defined in Article 4 hereof), and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the interest of the Vendor in the Equipment, its interest in the income and proceeds from the Equipment, or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

(b) The covenant set forth in paragraph (a) of this Article 12 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.

(c) Without in any way limiting the application thereof to other Sections of this Agreement as specified therein, it is understood that the obligations of the Trustee under this Article are subject to the limitations contained in paragraph (h) of Article 4 and in Article 21 hereof; provided, however, that the Trustee will pay or discharge any and all taxes, claims, liens, charges or security interests on the Equipment or the income and proceeds of the Equipment claimed by any party from, through or under the Trustee and, to the extent that funds are available in the Trust Estate, of the Owner, not arising out of the transactions contemplated hereby (but including all income taxes arising out of the receipt of rentals and other payments under the Lease or the Participation Agreement and any other proceeds from the Equipment, but, in each case, only to the extent that the Lessee has not agreed to indemnify the Owner therefor) but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, materially and adversely affect the security interest of the Vendor in the Equipment, its interest in the income and proceeds from the Equipment, or otherwise under this Agreement.

ARTICLE 13

Indemnity

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

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

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

(c) The Trustee will bear the responsibility for and risk of, and shall not be released from its obligations

hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

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

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

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

ARTICLE 14

Assignments

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

(b) All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time; provided, however, that if no event of default or Event of Default or any event which with lapse of time or notice or both would constitute such an event of default or Event of Default hereunder or under the Lease, as the case may be, has occurred and is continuing, the Vendor may only make such an assignment to the Assignee or to a domestic bank, trust

company or other lending institution with a combined capital and surplus of not less than \$50,000,000. No such assignment shall subject any assignee to, or relieve any Seller from, any of the obligations of such Seller to deliver its Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 13 hereof, or relieve the Trustee of its respective obligations to such Seller contained in Articles 2, 3, 4, 6, and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

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

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

reason of any other indebtedness or liability at any time owing to the Trustee or the Lessee by such Seller. Any and all such obligations, however arising, shall be and remain enforceable by the Trustee or the Lessee, as the case may be, against and only against such Seller.

ARTICLE 15

Defaults

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

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

(b) the Trustee shall, subject to the provisions of Article 21 hereof, fail or refuse to comply with any other of the terms and covenants of this Agreement or the Lease Assignment on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance, and such noncompliance shall continue for more than 30 days after the Vendor shall have demanded in writing performance thereof, or

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

(d) any proceeding shall be commenced by or against the Trustee or the Owner for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a proceeding which does not permit any readjustment of the obligations hereunder or under the Lease, the Lease Assignment or the Participation Agreement or the Trust Agreement of the Trustee or the Owner, as the case may be) and, unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all such obligations shall not be duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Trustee or the Owner, as the case may be, or for its or their property in connection with any such proceeding in such manner that such obligations have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceeding shall have been commenced; or

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

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Trustee, the Owner and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare ("Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, but without premium immediately due

and payable, without further demand, and thereafter the aggregate of the unpaid balance of the CSA Indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. In addition, if the Trustee does not pay the entire unpaid CSA Indebtedness, together with the interest thereon accrued and unpaid to the date of payment within 15 days of such notice of Declaration of Default, the Vendor may cause the Lease immediately to terminate (and the Trustee acknowledges the right of the Vendor to terminate the Lease) but without affecting the indemnities which by the provisions of the Lease survive its termination. Upon a Declaration of Default, subject to Articles 4 and 21 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Trustee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Trustee shall promptly notify the Vendor, the Owner and each Investor of any event of which any of its officers having responsibility for the administration of this transaction has actual knowledge which constitutes, or with the giving of notice and/or lapse of time would constitute, an event of default under this Agreement.

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

ARTICLE 16

Remedies

(a) At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance

with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Trustee any sums theretofore paid in respect thereof and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Trustee or any other person and for such purpose may enter upon the premises of the Trustee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Trustee, subject to all mandatory requirements of due process of law.

(b) In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Trustee shall, at its own expense and risk:

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

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

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

During any storage period, the Trustee will, at its own cost and expense, in accordance with the standards and provisions of the Lease, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties; and upon the application to any court of equity

having jurisdiction in the premises, the Vendor shall be entitled to a decree of specific performance hereof. The Trustee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of Equipment in any reasonable manner.

(c) At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, upon such notice and consent, as is hereinafter set forth, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Trustee and the Lessee by telegram, telex, telecopy or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor shall elect to retain the Equipment and the Trustee does not object thereto in writing as described in second proviso below, all the Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Trustee or for its account in respect of the Equipment may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Trustee, before the expiration of the 90-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid, but without premium, and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee; provided further that if the Trustee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 90 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be provided by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

(d) At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking

possession of the Equipment, at its election and upon 90 days' written notice to the Trustee, the Owner, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Trustee, the Lessee or any other party claiming from, through or under the Trustee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Trustee should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid, but without premium, and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

(e) Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be conducted in a commercially reasonable manner. The Vendor and the Trustee each may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Trustee, the Owner and the Lessee shall be given written notice of such sale or the making of a contract for such sale not less than 90 days prior thereto, by telegram, telex, telecopy or registered mail addressed as provided in Article 20 hereof. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Trustee or the Lessee (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to

have credited on account thereof all or any part of sums due to the Vendor hereunder.

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

(g) At any time within 90 days after the occurrence of an Event of Default under the Lease, the Trustee may tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid, but without premium, and all other sums due and payable to the Vendor under this Agreement at the time (including, without limitation, all reasonable expenses, including attorney's fees, incurred by the Vendor in enforcing its remedies hereunder), and in such event upon receipt of such payment by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee.

(h) Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor except that the Vendor shall not be deemed to have the power or remedy to retain the Equipment in satisfaction of the CSA Indebtedness except as specifically provided in this Article 16. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Trustee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Trustee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Trustee's obligations or the Vendor's rights

hereunder with respect to any subsequent payments or default therein.

(i) Subject to paragraph (c) of this Article 16, if, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to the Vendor under the provisions of this Agreement, the Trustee shall, subject to the limitations of the last paragraph of Article 4 and Article 21 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Trustee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Trustee. If, after applying all sums realized by the Vendor in any of its capacities under the remedies provided or contemplated hereunder or under any other document related to this transaction, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid promptly to the Trustee.

(j) The Trustee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies against the Trustee under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations of the last paragraph of Article 4 and Article 21 hereof.

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

ARTICLE 17

Applicable State Laws

(a) Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable Federal law) shall as to such jurisdiction be ineffective, without modifying the remaining

provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 18

Recording

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

ARTICLE 19

Article Headings; Effect and Modification of Agreement.

(a) All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

ARTICLE 20

Notice

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

(a) to the Trustee at 777 Main Street, Hartford Connecticut 06115, attention of Corporate Trust Department,

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

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

(d) to an Investor at its address specified in Schedule A to the Participation Agreement,

(e) to the Owner at its address specified in Schedule B to the Participation Agreement, and

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

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

ARTICLE 21

Satisfaction of Undertakings

(a) Notwithstanding anything herein or in any of the other Documents to the contrary, the obligations of the Trustee under paragraphs (b), (i), and (j) of Article 16 and under Articles 3, 6, 7 (other than the second and third sentences of the paragraph (b) thereof), 8, 9, 10, 12, (other than the proviso to paragraph (c) thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease, whether or not satisfaction by Lessee of its obligations thereunder shall actually result in satisfaction of such obligations of the Trustee. The Trustee shall not have any responsibility or liability for the Lessee's failure to perform the Lessee's obligations, but if the same shall not be performed, such failure shall constitute the basis for an event of default hereunder pursuant to paragraph (e) of Article 15 hereof and not paragraph (b) thereof. Until the security interest of the Vendor in this Agreement is discharged as provided in Article 5 hereof, no waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

(b) Each and all of the representations, warranties, covenants and agreements herein made on the part of the financial institution acting as Trustee hereunder are made and intended not as personal representations, warranties, covenants and agreements by said institution or for the purpose or with the intention of binding said institution personally but are made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement) and (except as aforesaid) this Agreement is executed and delivered by said institution solely in the exercise of the powers expressly conferred upon said institution as trustee under the Trust Agreement; and no personal liability or personal responsibility is assumed by or shall

at any time be asserted or enforceable against said institution on account of any representation, warranty, covenant or agreement herein of the Trustee (except in the case of gross negligence or willful misconduct of the Trustee), either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor making claim hereunder may look to said Trust Estate for satisfaction of the same.

ARTICLE 22

Law Governing

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303 and such additional rights arising out of the filing, recording or deposit hereof, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any unit of Equipment shall be located, and any rights arising out of the markings on the units of Equipment.

ARTICLE 23

Execution

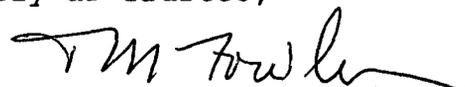
This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Each Seller and the Trustee shall be bound hereunder notwithstanding the failure of any other Seller to execute and deliver this Agreement or to perform its obligations hereunder. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed. This Agreement shall be effective when

executed counterparts hereof have been delivered to Cravath, Swaine & Moore at their offices in New York, New York.

IN WITNESS WHEREOF, each of the parties hereto, pursuant to due corporate authority, has caused this instrument to be duly executed in its corporate name by its officers, thereunto duly authorized, all as of the date first above written, and each of the undersigned signatories hereto declares pursuant to 28 U.S.C. § 1746 under penalty of perjury that the foregoing is a true and correct document and was executed on the date indicated below its signature.

THE CONNECTICUT NATIONAL BANK,
not in its individual capacity
but solely as Trustee,

by

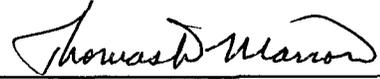


Name: ~~THOMAS H. FOWLER~~
Title: Vice President

Executed on January , 1990

TRAILER TRAIN COMPANY,

by



Name: Thomas D. Marion
Title: Treasurer

Executed on February 8, 1990.

BETHLEHEM STEEL CORPORATION,

by

Name:
Title:

Executed on February , 1990.

TRINITY INDUSTRIES, INC.,

by

Name:
Title:

Executed on February , 1990.

TRAILER TRAIN COMPANY,

by

Name:

Title:

Executed on January , 1990.

BETHLEHEM STEEL CORPORATION,

by

A. M. Weller

Name: A. M. Weller

Title: Vice President & Treasurer

Executed on ~~January~~ ^{February 8} 1990.

TRINITY INDUSTRIES, INC.,

by

Name:

Title:

Executed on January , 1990.

TRAILER TRAIN COMPANY,

by

Name:
Title:

Executed on January , 1990

BETHLEHEM STEEL CORPORATION,

by

Name:
Title:

Executed on January , 1990.

TRINITY INDUSTRIES, INC.,

by



Name: F. Dean Phelps, Jr.
Title: Vice President

Executed on ~~January~~ ^{February 8} 1990.

D'ACCORD FINANCIAL SERVICES, INC.

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**** LOAN AMORTIZATION ALL LOANS ****

Lessor: NATWEST USA Leasing Corp.
 Lessee: Trailer Train
 Equipment: New Intermodal Flatcars
 CLOSING ECONOMICS - 8/4/90 LEASE COMMENCEMENT

Allocation Schedule of Each \$10,000,000
 of 9.48% Conditional Sale Indebtedness

Loan Amortization for LN1
 Amount: 10000000.00
 Average Debt Life: 13.750000 years
 Duration: 7.618841 years discounting at 9.704676 effective
 Debt Rate: 9.480000%

Date	Takedown	Principal Repayment	Interest Amount	Total Debt Service	Loan Balance
2/28/90	10000000.00	0.00	0.00	0.00	10000000.00
8/04/90	0.00	0.00	410800.00	410800.00	10000000.00
2/04/91	0.00	0.00	474000.00	474000.00	10000000.00
8/04/91	0.00	0.00	474000.00	474000.00	10000000.00
2/04/92	0.00	0.00	474000.00	474000.00	10000000.00
8/04/92	0.00	0.00	474000.00	474000.00	10000000.00
2/04/93	0.00	0.00	474000.00	474000.00	10000000.00
8/04/93	0.00	476508.75	474000.00	950508.75	9523491.25
2/04/94	0.00	0.00	451413.49	451413.49	9523491.25
8/04/94	0.00	182332.50	451413.49	633745.99	9341158.75
2/04/95	0.00	0.00	442770.92	442770.92	9341158.75
8/04/95	0.00	199617.63	442770.92	642388.55	9141541.12
2/04/96	0.00	0.00	433309.05	433309.05	9141541.12
8/04/96	0.00	218541.37	433309.05	651850.42	8922999.75
2/04/97	0.00	0.00	422950.19	422950.19	8922999.75
8/04/97	0.00	239259.12	422950.19	662209.31	8683740.63
2/04/98	0.00	0.00	411609.31	411609.31	8683740.63
8/04/98	0.00	240719.37	411609.31	652328.68	8443021.26
2/04/99	0.00	0.00	400199.21	400199.21	8443021.26
8/04/99	0.00	464515.87	400199.21	864715.08	7978505.39
2/04/00	0.00	908756.13	378181.15	1286937.28	7069749.26
8/04/00	0.00	0.00	335106.11	335106.11	7069749.26
2/04/01	0.00	312099.63	335106.11	647205.74	6757649.63
8/04/01	0.00	0.00	320312.59	320312.59	6757649.63
2/04/02	0.00	453159.75	320312.59	773472.34	6304489.88
8/04/02	0.00	0.00	298832.82	298832.82	6304489.88
2/04/03	0.00	507256.88	298832.82	806089.70	5797233.00

D'ACCORD FINANCIAL SERVICES, INC.

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**** LOAN AMORTIZATION ALL LOANS ****

Lessor: NATWEST USA Leasing Corp.
 Lessee: Trailer Train
 Equipment: New Intermodal Flatcars
 CLOSING ECONOMICS - 8/4/90 LEASE COMMENCEMENT

Allocation Schedule of Each \$10,000,000
of 9.48% Conditional Sale Indebtedness

Loan Amortization for LNI

Amount: 10000000.00

Average Debt Life: 13.750000 years

Duration: 7.618841 years discounting at 9.704676 effective

Debt Rate: 9.480000%

Date	Takedown	Principal Repayment	Interest Amount	Total Debt Service	Loan Balance
8/04/03	0.00	0.00	274788.84	274788.84	5797233.00
2/04/04	0.00	515522.75	274788.84	790311.59	5281710.25
8/04/04	0.00	0.00	250353.07	250353.07	5281710.25
2/04/05	0.00	566355.75	250353.07	816708.82	4715354.50
8/04/05	0.00	0.00	223507.80	223507.80	4715354.50
2/04/06	0.00	879236.88	223507.80	1102744.68	3836117.62
8/04/06	0.00	0.00	181831.98	181831.98	3836117.62
2/04/07	0.00	962588.50	181831.98	1144420.48	2873529.12
8/04/07	0.00	0.00	136205.28	136205.28	2873529.12
2/04/08	0.00	1053841.88	136205.28	1190047.16	1819687.24
8/04/08	0.00	0.00	86253.18	86253.18	1819687.24
2/04/09	0.00	1153746.12	86253.18	1239999.30	665941.12
8/04/09	0.00	0.00	31565.61	31565.61	665941.12
2/04/10	0.00	665941.12	31565.61	697506.73	0.00
Total:	10000000.00	10000000.00	13035000.05	23035000.05	

Conditional Sale Agreement

- Item 1: Trailer Train Company, 101 North Wacker Drive, Chicago, Illinois 60606, Attention of Treasurer.
- Item 2: The Equipment shall be settled for in one Group on February 28, 1990, unless the parties hereto otherwise agree.
- Item 3: Each Manufacturer hereby consents to the assignment by Trailer Train Company to the Trustee and the Vendor of the warranties and patent indemnification given to Trailer Train Company by such Manufacturer with respect to its Equipment. Each Manufacturer will make available to the Trustee and the Vendor the warranties and patent indemnifications given to Trailer Train Company by the Manufacturers.
- Item 4: The Maximum Purchase Price referred to in Article 4 of this Agreement is \$19,149,657.04.
- Item 5: The Maximum CSA Indebtedness referred to in Article 4 of the Agreement is \$15,319,726.
- Item 6: NatWest USA Leasing Corp..
- Item 7: Annex B hereto shows the Equipment manufactured by each Manufacturer. To the extent Trailer Train Company has purchased such Equipment before any Closing Date, it will be the Seller thereof and the Manufacturers will be the Sellers of the balance of the Equipment.

01/23/90
TL31DEQ(NATWEST)

TRAILER TRAIN COMPANY
ANNEX B TO THE CONDITIONAL SALE AGREEMENT AND
SCHEDULE A TO THE LEASE OF RAILROAD EQUIPMENT (NO. 31D),
EACH DATED AS OF JANUARY 2, 1990

BUILDER/ CAR TYPE	QUANTITY	CAR NUMBERS (INCLUSIVE)	UNIT COST	TOTAL COST	DELIVERY PERIOD	CONTRACT
BETHLEHEM STEEL CORP.:						
* FIVE-PLATFORM ARTICULATED ALL-PURPOSE SPINE FLATCARS WITH RETRACTABLE HITCHES FOR CARRYING TRAILERS OR CONTAINERS - TTAX.	82	78042, 78048, 78050-78299			DEC., 1989- March., 1990	T-5088-B
TRINITY INDUSTRIES, INC.:						
* FIVE-PLATFORM ARTICULATED ALL-PURPOSE SPINE FLATCARS WITH RETRACTABLE HITCHES FOR CARRYING TRAILERS OR CONTAINERS - TTAX.	46	76075-76139 76174-76259			DEC., 1989- March., 1990	T-1089-P
	<u>128</u>			<u>\$19,231,100.44</u>		

* NOT SUBJECT TO THE CUSHIONING REQUIREMENTS OF THE AAR INTERCHANGE RULES.

** F.O.B. TRINITY PLANT.