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RECORDATION NO. FILED 1425
JAN 31 1991 -12 22 PM
INTERSTATE COMMERCE COMMISSION

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January 31, 1991

Mr. Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Twelfth Street & Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Lease of Locomotives from NBB Bethlehem Lease Co., Ltd. to Union Pacific Railroad Company

Dear Mr. Strickland:

Enclosed are an original and two originally executed counterparts of the three primary documents described below and three secondary documents which are also described below and which are related to the primary document described as item number 1 below. All of the enclosed documents are to be recorded pursuant to Section 11303, Title 49, of the United States Code.

The enclosed primary documents are:

(1) Lease Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as lessor, and Union Pacific Railroad Company, as lessee.

(2) Mortgage, Assignment and Security Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as mortgagor, and The Sumitomo Bank, Limited, New York Branch, as mortgagee.

(3) Lessor Security Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as debtor, and Union Pacific Railroad Company, as secured party.

The enclosed secondary documents are:

(1) Lease Supplement No. 1, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as lessor, and Union Pacific

Railroad Company, as lessee. The primary document to which this Lease Supplement is connected is being submitted for recording concurrently herewith.

(2) Assignment Agreement, dated as of January 31, 1991, between Union Pacific Railroad Company, as assignor, and NBB Bethlehem Lease Co., Ltd., as assignee. The primary document to which this Assignment Agreement is connected is being submitted for recording concurrently herewith.

(3) Bank Security Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as debtor, and The Sumitomo Bank, Limited, New York Branch, as secured party. The primary document to which this Bank Security Agreement is connected is being submitted for recording concurrently herewith.

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

<u>Lease Agreement</u>

Lessor:
NBB Bethlehem Lease Co., Ltd.
1-12-11 Nihonbashi, Chuo-ku
Tokyo 103, Japan

Lessee:
Union Pacific Railroad Company
Martin Tower
Eighth and Eaton Avenues
Bethlehem, PA 18018

Lease Supplement

Lessor:
NBB Bethlehem Lease Co., Ltd.
1-12-11 Nihonbashi, Chuo-ku
Tokyo 103, Japan

Lessee:
Union Pacific Railroad Company
Martin Tower
Eighth and Eaton Avenues
Bethlehem, PA 18018

Assignment Agreement

Assignor:
Union Pacific Railroad Company
Martin Tower
Eighth and Eaton Avenues
Bethlehem, PA 18018

Assignee:
NBB Bethlehem Lease Co., Ltd.
1-12-11 Nihonbashi, Chuo-ku
Tokyo 103, Japan

Mortgage, Assignment and Security Agreement

Mortgagor:
NBB Bethlehem Lease Co., Ltd.
1-12-11 Nihonbashi, Chuo-ku
Tokyo 103, Japan

Mortgagee:
The Sumitomo Bank, Limited
New York Branch
One World Trade Center
Suite 9549
New York, NY 10048

Bank Security Agreement

Debtor:
NBB Bethlehem Lease Co., Ltd.
1-12-11 Nihonbashi, Chuo-ku
Tokyo 103, Japan

Secured Party:
The Sumitomo Bank, Limited
New York Branch
One World Trade Center
Suite 9549
New York, NY 10048

Lessor Security Agreement

Debtor:
NBB Bethlehem Lease Co., Ltd.
1-12-11 Nihonbashi, Chuo-ku
Tokyo 103, Japan

Secured Party:
Union Pacific Railroad Company
Martin Tower
Eighth and Eaton Avenues
Bethlehem, PA 18018

The description of the equipment covered by the aforesaid Lease, Lease Supplement and Assignment is as follows:

Twenty-seven General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives each marked on the sides in letters not less than one inch in height with the words "Ownership Subject to Documents Filed with the Interstate Commerce Commission" and bearing a nameplate with the legible inscription "TITLE TO THIS LOCOMOTIVE IS HELD BY NBB BETHLEHEM LEASE CO., LTD., THE LESSOR, WHICH HAS LEASED THIS LOCOMOTIVE TO UNION PACIFIC RAILROAD COMPANY AND SUCH TITLE IS SUBJECT TO A MORTGAGE IN FAVOR OF THE SUMITOMO BANK, LIMITED, NEW YORK BRANCH, AS AGENT" and bearing the road numbers 6216 through 6242, inclusive.

Included in the property covered by the Mortgage, Assignment and Security Agreement are twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives and all additions, alterations and modifications thereto or replacements thereof and certain rights of NBB Bethlehem Lease Co., Ltd. in the Lease Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as lessor, and Union Pacific Railroad Company, as lessee, and the Assignment Agreement, dated as of January 31, 1991, between Union Pacific Railroad Company, as assignor, and NBB Bethlehem Lease Co., Ltd., as assignee.

Included in the collateral covered by the Bank Security Agreement are certain payments to be made in U.S. Dollars by Union Pacific Railroad Company, as lessee, to NBB Bethlehem Lease Co., Ltd., as lessor, in respect of the twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives.

Included in the property covered by the Lessor Security Agreement are twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives and all additions, alterations and modifications thereto or replacements thereof, subject to the Mortgage, Assignment and Security Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as mortgagor, and The Sumitomo Bank, Limited, New York Branch, as mortgagee.

A fee of Ninety Dollars ($90.00) is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to:

Stephen A. Jannetta, Esquire
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103

A short summary of each of the documents to appear in the index follows:

1) Lease Agreement:
Lease Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as lessor, 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan and Union Pacific Railroad Company, as lessee, Martin Tower, Eighth and Eaton Avenues,

Bethlehem, PA 18018, covering twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives bearing road numbers 6216 through 6242 inclusive.

2) Lease Supplement No. 1:
Lease Supplement No. 1, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as lessor, and having its principal office at 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan and Union Pacific Railroad Company, as lessee, Martin Tower, Eighth and Eaton Avenues, Bethlehem, PA 18018, covering twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives bearing road numbers 6216 through 6242 inclusive.

3) Assignment Agreement:
Assignment Agreement, dated as of January 31, 1991, between Union Pacific Railroad Company, as assignor, Martin Tower, Eighth and Eaton Avenues, Bethlehem, PA 18018 and NBB Bethlehem Lease Co., Ltd., as assignee, 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan, relating to the purchase of twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives bearing road numbers 6216 through 6242 inclusive.

4) Mortgage, Assignment and Security Agreement:
Mortgage, Assignment and Security Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as mortgagor, 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan and The Sumitomo Bank, Limited, New York Branch, as mortgagee, One World Trade Center, Suite 9549, New York, NY 10048, securing Mortgagor's obligations relating to twenty-seven (27) General Motors

Corporation (Electro-Motive Division) SD-60 diesel electric locomotives.

5) Bank Security Agreement:
Bank Security Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as debtor, 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan and The Sumitomo Bank, Limited, New York Branch, as secured party, One World Trade Center, Suite 9549, New York, NY 10048, securing debtor's obligations relating to twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives.

6) Lessor Security Agreement:
Lessor Security Agreement, dated as of January 31, 1991, between NBB Bethlehem Lease Co., Ltd., as debtor, 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan and The Union Pacific Railroad Company, as secured party, Martin Tower, Eighth and Eaton Avenues, Bethlehem, PA 18018, securing debtor's obligations relating to twenty-seven (27) General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives bearing road numbers 6216 through 6242, inclusive.

If you have any questions, please do not hesitate to call the undersigned.

Very truly yours,

Stephen A. Jannetta

Stephen A. Jannetta

SAJ/bas
Enclosures

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INTERSTATE COMMERCE COMMISSION

# MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT

Between

NBB BETHLEHEM LEASE CO., LTD.,
as Borrower

and

THE SUMITOMO BANK, LIMITED,
NEW YORK BRANCH,
as Agent

Dated as of January 31, 1991

Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 on _____, 1991, at _____, recordation number _____.

# MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT ("Mortgage"), dated as of January 31, 1991, between NBB BETHLEHEM LEASE CO., LTD. (hereinafter called the "Borrower"), a corporation organized and existing under the laws of Japan, and THE SUMITOMO BANK, LIMITED, NEW YORK BRANCH, a banking institution organized under the laws of Japan, as Agent (hereinafter called the "Agent").

WHEREAS, the Borrower desires by this Mortgage, among other things, to provide for the assignment, mortgage and pledge by the Borrower to the Agent, for the ratable benefit of the Lenders, of all of the Borrower's right, title and interest in and to the Items of Equipment and the Lease and any other property constituting Mortgaged Property, under the conditions described below, as security for the Borrower's obligations to the Lenders under the Loan Agreement; and

WHEREAS, all acts and things necessary to make this Mortgage a valid and legally binding obligation of the Borrower, in accordance with its terms, have been done and performed;

NOW, THEREFORE, THIS MORTGAGE WITNESSETH:

Section 1. Definitions and Interpretation.

1.1 Definitions. Unless the context otherwise requires, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in Appendix X of this Mortgage.

1.2 Interpretation. Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa; persons shall include bodies corporate and vice versa; the headings are for convenience only and shall not affect the construction hereof; reference herein to any agreement, license or other instrument shall be deemed to include references to such agreement, license or other instrument as varied or replaced from time to time; references herein to any enactment shall be deemed to include references to such enactment as reenacted, amended or extended; references to sections are references to sections of this Mortgage; and references to the Borrower, the Lenders, the Agent or the Lessee shall, where relevant, be deemed to be references to or to include, as appropriate, their respective successors or permitted assigns.

Section 2. Security.

2.1 Granting Clause. In order to secure the payment by the Borrower to the Lenders of the Secured Obligations and the due and punctual performance by the Borrower of all of the terms, covenants, undertakings, conditions and provisions of this Mortgage and the Loan Agreement, the Borrower hereby grants, bargains, sells, assigns, transfers, conveys, mortgages and pledges unto the Agent and its successors and assigns, and grants to the Agent, and its successors and assigns, for the ratable benefit of the Lenders, a security interest in and mortgage lien on, all of the Borrower's estate, right, title and interest in, to and under the following described property, rights, interests and privileges whether now owned or hereafter acquired (all such property, including all property hereafter specifically subjected to the Lien of this Mortgage by any instrument supplemental hereto, being herein called the "Mortgaged Property"), to wit:

(a) All right, title and interest of the Borrower in and to the Items of Equipment including, without limitation, all additions, alterations or modifications thereto or replacement of any part thereof, whenever made or performed or acquired and all other items of tangible personal property of any kind acquired by the Borrower in connection with the acquisition of the Items of Equipment, in each case whether acquired at the time of acquisition of the Items of Equipment or thereafter acquired pursuant to the Lease or otherwise, and all documents of title, certificates of title, bills of sale, books, records and documents relating to the foregoing;

(b) All right, title and interest of the Borrower in and to the Lease and the Assignment Agreement other than (i) all right, title and interest of the Borrower in and to the Lease and the Assignment Agreement during the period during which a Bank Event of Default shall not be continuing (it being understood and agreed that, except as provided in Section 9 hereof, Section 10(c) of the Participation Agreement, and in the Lease and any other Operative Document, the Borrower may exercise all of its rights, powers and privileges under and enjoy all of the benefits of the Lease and the Assignment Agreement to the exclusion of the Lenders and the Agent unless a Bank Event of Default shall be continuing), and (ii) the Excepted Interests; and

(c) All right, title and interest of the Borrower in and to all proceeds, rents, issues, profits, products, revenues and other income, from and on

account of the property, rights and privileges subjected or required to be subjected to the Lien of this Mortgage.

TO HAVE AND TO HOLD the Mortgaged Property unto the Agent and its successors and assigns, for the ratable benefit of the Lenders, for the uses and purposes and subject to the terms and provisions set forth in this Mortgage.

It is hereby further agreed that any and all property described or referred to in this Section 2.1 which is hereafter acquired by the Borrower shall ipso facto, and without any further conveyance, assignment or act on the part of the Borrower, the Agent or the Lenders, become and be subject to the Lien and security interest herein granted as fully and completely as though specifically described herein, but nothing contained in this paragraph shall be deemed to modify or change the obligations of the Borrower contained herein.

2.2 Further Assurances. On the Closing Date, the Borrower shall deliver to the Agent an original executed counterpart of the Acknowledgement attached hereto as Exhibit A with respect to the assignment of the Lease hereunder. The Borrower further agrees that at any time and from time to time, upon the written request of the Agent, the Borrower will promptly and duly execute and deliver or cause to be duly executed and delivered any and all such further instruments and documents as the Agent may reasonably request to preserve and protect for the Lenders the benefits of the Lien and security interest and of the rights and powers herein granted to the Agent for the ratable benefit of the Lenders.

2.3 Release and Discharge. The Lien and security interest granted pursuant to this Mortgage shall not be released or discharged by payment or satisfaction of any part of the Secured Obligations but shall be a continuing Lien and security interest and shall extend to cover any sum or sums of money or other obligations which shall for the time being constitute the balance of the Secured Obligations until all of the Secured Obligations are paid or discharged in full, or until the Loan is assumed by the Lessee in accordance with Section 19 of the Participation Agreement and any Secured Obligations not so assumed are paid or discharged in full. Upon the payment or discharge in full of the Secured Obligations or the assumption of the Loan by Lessee and payment or discharge of Secured Obligations as aforesaid, the Lien and security interest granted pursuant to this Mortgage shall be released and discharged and the Agent shall execute and deliver to the Borrower such instruments or documents as Borrower shall reasonably request to evidence (on the public record or otherwise) such release and discharge.

Section 3. Representations, Warranties and Covenants. The Borrower hereby represents and warrants as of the date hereof and as of the Closing Date that it has not assigned or permitted any Lessor's Lien to subsist over, and covenants and agrees that throughout the Security Period it shall not assign or cause any Lessor's Lien to subsist over, any of its rights, title and interest in the Mortgaged Property. The Agent hereby acknowledges and consents to the security interest in the LSA Collateral created pursuant to the Lessor Security Agreement, provided that such security interest, to the extent it relates to any part of the Mortgaged Property, shall, as provided in Section 13(h) thereof, at all times be subject and subordinate to the Lien and security interest granted hereunder.

Section 4. Remedies.

4.1 If a Bank Event of Default shall have occurred and be continuing and repayment of the Loan shall have been accelerated pursuant to Section 5.1 of the Loan Agreement, the Agent shall have and may exercise on behalf of the Lenders with respect to the Mortgaged Property all the rights and remedies of a secured party under any applicable law (subject to Lessee's rights under the Lease) including full power and authority (to be exercised at such time or times and at such place or places as the Agent may think fit) to do all or any of the following acts or things:

(a) to apply to any appropriate authority in the jurisdiction in which any of the Mortgaged Property is located for an enforcement and attachment order in respect thereof;

(b) to take possession of all or any part of the Mortgaged Property, and to enter into and upon any land or premises where the Mortgaged Property or any part thereof is believed to be situated and to remove and take away such Mortgaged Property or any part thereof to another place or places or to suffer it to remain in the place where the same may be found and either with or without making any such entry, seizure or taking, to sell or dispose of such Mortgaged Property or any part thereof at such time or times and place or places and either by public auction or private sale or partly by one and partly by the other as the Agent may think fit, with or without demand, advertisement or notice except as expressly provided below in this clause (b), and at such price or prices as the Agent may deem reasonable, with power to the Agent to withdraw the Mortgaged Property or any part thereof at any such sale and to rescind, adjourn or vary

any such sale or disposal and again to resell or dispose of the Mortgaged Property or any part thereof from time to time at such price or prices as the Agent may deem reasonable, without being answerable or accountable for any losses, diminution in value, costs or expenses which may be occasioned by any such resale or attempted resale. The receipt in writing of the Agent for all or any purchase money received on account of any such sale shall be good and sufficient discharge to the purchasers or persons paying the same. The Agent shall give Borrower and Lessee at least 10 days' notice of any public sale hereunder, which notice shall state the time and place fixed for such sale;

(c) to make and effect all additions, substitutions, replacements, repairs, renewals and insurance for the operation, maintenance, improvement, re-equipping and/or the refurbishing of the Items of Equipment or any part thereof so as to keep such Items of Equipment and any part thereof in good condition and repair and so as to comply with the provisions of all statutes, laws, rules, orders, requirements and regulations whatsoever from time to time applicable thereto;

(d) to lease the Mortgaged Property on such terms as it shall think fit;

(e) to raise or borrow money for the purposes aforesaid on the Mortgaged Property or any part thereof in priority to the Lien and security interest granted by this Mortgage and at such a rate or rates of interest and generally on such terms and conditions as the Agent may think fit and generally to do or cause to be done all such acts and things and enter into such arrangements respecting the Mortgaged Property or any part thereof or the working of the same as the Agent could do if it were the owner thereof and without being responsible for any loss or damage whatsoever which may arise or be occasioned thereby;

(f) to attach any moneys or income arising from the hire, lease, charge or use of the Mortgaged Property or any part thereof and apply all such moneys in accordance with the terms of Section 5 hereof;

(g) to take possession of, collect and get in any moneys covered by the Lien of this Mortgage and for that purpose to take any proceedings in

the name of the Borrower or otherwise as it may, in its absolute discretion, think expedient;

(h) to take possession of and deal with or dispose of all maintenance records, record books, manuals, handbooks, schedules, and other documents relating to the Items of Equipment;

(i) to exercise the powers conferred on the Borrower by any statute, deed or contract in respect of the Mortgaged Property or any part thereof but without any obligation to exercise any of such powers and (except in the case of negligence or fraud) without any liability in respect of any powers so exercised; and

(j) generally to use the Borrower's name to do all such acts and things as it may, in its absolute discretion, consider necessary or desirable in the exercise of all or any of the powers conferred by this Mortgage.

Notwithstanding the foregoing, it is understood and agreed that (x) if an Event of Default under the Lease shall have occurred and is continuing, the Agent shall only be entitled to proceed to foreclose the Lien of the Mortgage if it proceeds, to the extent it has not already done so and 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, to declare the Lease to be in default and to commence the exercise of one or more remedies referred to in Section 15 of the Lease (as it shall determine in its sole good faith discretion) relating to the recovery of the Items of Equipment or any portion thereof; provided that, if the Agent is stayed or is otherwise prevented from exercising any such remedy under the Lease by operation of law or otherwise, the Agent shall not proceed to foreclose the Lien of the Mortgage until the earlier of:

(a) the 60th day following the occurrence of such Event of Default under the Lease, or

(b) the date on which the Agent is no longer stayed or otherwise prevented from exercising any such remedy under the Lease;

and (y) if a Bank Event of Default (other than a Bank Event of Default that results from the breach by Lessee of any of its obligations under the Operative Documents) shall have occurred and be continuing and repayment of the Loan

shall have been accelerated pursuant to Section 5.1 of the Loan Agreement, the Agent will not exercise its rights hereunder or under Section 10(c) of the Participation Agreement in such manner as would result in (i) the extension of the Termination Date provided for in Section 9(d)(ii) or (v) of the Lease beyond the time period specified in Section 9(d)(ii) or (v), as applicable, or (ii) the sale or other disposition of any of the Mortgaged Property prior to the Termination Date specified in Section 9(d)(ii) or (v) of the Lease, as applicable.

4.2 To the extent permitted by applicable law, the Agent or any Lender may be a purchaser of the Mortgaged Property or any part thereof or any interest therein at any sale thereof, whether pursuant to foreclosure or power of sale or otherwise. The Agent or such Lender shall, upon any such purchase, acquire good title to the property so purchased, free of the Lien of this Mortgage, and, to the extent permitted by applicable law, free of all rights of redemption of the Borrower in respect of the property so purchased.

4.3 Any sale hereunder of the Mortgaged Property or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise, shall be a perpetual bar against the Borrower after the expiration of the period, if any, during which the Borrower shall have the benefit of redemption laws which may not be waived pursuant to Section 7.

4.4 The Borrower hereby irrevocably constitutes the Agent, upon the occurrence and during the continuance of a Bank Event of Default (if repayment of the Loan shall have been accelerated pursuant to Section 5.1 of the Loan Agreement), the true and lawful attorney-in-fact of the Borrower in its name and stead and on its behalf, for the purpose of effectuating any sale, assignment, transfer or delivery or other act in connection with the enforcement of the Lien of this Mortgage, whether pursuant to foreclosure or power of sale or otherwise, to execute and deliver all such bills of sale, assignments and other instruments as the Agent may consider necessary or appropriate, with full power of substitution, and the Borrower hereby ratifies and confirms all that such attorney or any substitute shall lawfully do by virtue hereof. Nevertheless, if so requested by the Agent, or any purchaser, the Borrower at its expense shall ratify and confirm any such sale, assignment, transfer or delivery, by executing and delivering to the Agent or such purchaser all bills of sale, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request.

4.5 The Agent shall, as a matter of right, be entitled to the appointment of a receiver (who may be a Lender or the Agent or any successor or nominee of any thereof) for all or any part of the Mortgaged Property, whether such receivership be incidental to a proposed sale of the Mortgaged Property or the taking of possession thereof or otherwise, and the Borrower hereby consents to the appointment of such receiver and will not oppose any such appointment. Any receiver appointed for all or any part of the Mortgaged Property shall be entitled to exercise all of the rights and powers of the Agent with respect to the Mortgaged Property.

4.6 Notwithstanding anything herein to the contrary, in all events, recourse against the Borrower shall be limited to the Mortgaged Property and the Collateral as provided in Section 4.3 of the Loan Agreement.

4.7 No Lender shall have any right to pursue, or to request the Agent to pursue, any remedy hereunder unless the Required Lenders shall have approved such action or shall have directed the Agent to take such action.

Section 5. Application of Proceeds. The proceeds of any sale or transfer or other application of the whole or any part of the Mortgaged Property, and any moneys collected in respect of the Mortgaged Property and any Swap Break Gain, shall be applied as follows:

First, in payment of any costs, charges or expenses whatsoever and howsoever arising incurred or expended by the Agent and/or any receiver under or pursuant to the provisions contained herein, including, without limitation, those expended or incurred for or in connection with discovering, locating, taking possession, insuring, storing or selling of the Mortgaged Property or any part thereof, and including, in all such cases, any costs of litigation and legal fees or other fees and expenses incurred in and about the exercise or attempted exercise of the said power of sale and the reasonable remuneration of any receiver under this Mortgage;

Second, to the payment of accrued and unpaid interest on the Loan;

Third, to the payment of principal of the Loan then due and unpaid;

Fourth, to the payment in full of all other Secured Obligations (exclusive of Swap Break Loss); and

Fifth, to the payment of Swap Break Loss.

Any surplus remaining after such applications shall be remitted to the Borrower or as a court of competent jurisdiction may otherwise direct.

Section 6. Discontinuance of Proceedings. In case the Agent shall have instituted any proceeding to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Agent, then and in every such case the Borrower and the Agent shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder with respect to the Mortgaged Property, and all rights, remedies and powers of the Agent shall continue as if no such proceeding had been instituted.

Section 7. Waiver of Appraisement, etc. Laws. The Borrower covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any appraisement, valuation, stay, extension or redemption law wherever enacted, now or at any time hereafter in force, in order to prevent or hinder the enforcement of this Mortgage or the execution of any power granted herein to the Agent, or the absolute sale of the Mortgaged Property, or any part thereof, or the possession thereof by any purchaser at any sale, and the Borrower for itself and all who may claim under it, so far as it or any of them now or hereafter lawfully may, hereby waives the benefit of all such laws. The Borrower for itself and all who may claim under it waives, to the extent that it lawfully may, all right to have the property in the Mortgaged Property marshalled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose this Mortgage may order the sale of the Mortgaged Property as an entirety. If any law referred to in this Section 7 and now in force, of which the Borrower or its successors might take advantage despite this Section 7, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 7.

Section 8. General Authority. The Borrower hereby constitutes and appoints the Agent, upon the occurrence and during the continuance of a Bank Event of Default (but, in the case of any action of the Agent under Section 4 hereof, only if repayment of the Loan shall have been accelerated pursuant to Section 5.1 of the Loan Agreement), as its true and lawful attorney-in-fact, with full

power of substitution, in the Agent's name or otherwise, for the purposes of carrying out the provisions of this Agreement and taking any action or executing or filing any instrument, or any of the foregoing, necessary to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Agent shall have the right, in its own name or in the Borrower's name or otherwise from time to time to exercise any or all of the powers of the Borrower with respect to any of the Mortgaged Property; provided, however, that the Agent shall not have any obligation whatsoever to exercise any of such powers hereby conferred upon it or to make any demand or any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or notice or take any other action whatsoever with respect to the Mortgaged Property. No action taken by the Agent or omitted to be taken by it in good faith shall give rise to any defense, counterclaim or offset in favor of the Borrower or otherwise affect any of the Secured Obligations. The rights granted to the Agent hereunder shall be in addition to the rights granted to the Agent under Section 4.4 hereof and Section 10(c)(ii) of the Participation Agreement.

Section 9. Certain Rights of Borrower. Anything to the contrary herein notwithstanding, if an Event of Default under the Lease shall have occurred and be continuing, the Borrower shall have the following rights hereunder and thereunder;

(a) In the event that an Event of Default in respect of the payment of Basic Rent under the Lease shall be continuing the Borrower may, but shall not be obligated to, pay the Agent prior to the Enforcement Date, an amount equal to any principal and interest (including interest, if any, on overdue payments of principal and interest) then due and payable on the Loan, and, unless the Borrower has cured Events of Default in respect of the two immediately preceding semi-annual payments of Basic Rent or four previous Events of Default in respect of the payment of Basic Rent under the Lease, such payment by the Borrower shall be deemed to cure any Event of Default which would otherwise have arisen on account of the non-payment by the Lessee of such installment of Basic Rent under the Lease (but not any other Event of Default which shall have occurred and be continuing).

(b) In the event that an Event of Default (other than a default in the payment of Basic Rent) which can be cured by the payment of money has occurred, the Borrower may, but shall not be obligated to, cure such Event of Default by making such payment prior to the Enforcement Date as is necessary to

accomplish the observance or performance of the defaulted covenant, condition or agreement to the party entitled to the same.

For purposes hereof "Enforcement Date" means the date which is five Business Days after the date on which the Agent may exercise remedies pursuant to Section 4 hereof.

Section 10. Miscellaneous.

10.1 No Waiver, etc. No failure on the part of the Agent to exercise, and no delay in exercising, and no course of dealing with respect to, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise of the same or any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

10.2 Security Interest. The security interest created by this Mortgage shall be in addition to and without prejudice to any other securities or guarantees from time to time held by the Agent or any Lender in respect of the Secured Obligations and this Mortgage shall remain in full force and effect until payment and discharge in full of the Secured Obligations, or the assumption of the Loan by the Lessee pursuant to Section 19 of the Participation Agreement and the payment and discharge of any Secured Obligations not so assumed, notwithstanding the liquidation, bankruptcy, insolvency or reorganization of the Borrower or any other fact or contingency whatsoever.

10.3 Governing Law. This Mortgage shall take effect under and be governed by and construed in accordance with the laws of the State of New York (excluding the laws applicable to conflicts or choice of law).

10.4 Notices. All notices, requests and demands hereunder shall be given or made in the manner provided for in Section 7.2 of the Loan Agreement.

10.5 Benefit of Agreement. This Mortgage shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, except that the Borrower may not assign its rights or obligations hereunder without the prior written consent of the Agent.

10.6 Counterparts. This Mortgage may be executed in any number of counterparts, and each such counterpart shall for all purposes be deemed to be an original, and all such counterparts together shall constitute one and the same instrument.

10.7 Books of the Lenders. Subject to any evidence to the contrary and in the absence of manifest error, the books of each Lender shall be determinative of any amount owed to such Lender and of all matters relating to this Mortgage with respect to such Lender.

10.8 Amendments. This Mortgage may not be amended or modified except by an instrument in writing signed by each of the parties hereto and with the prior written consent of the Lessee.

10.9 Agent. The provisions of Article 8 of the Loan Agreement respecting the appointment, powers, etc. of the Agent shall apply with like effect in this Mortgage.

10.10 Rights of Lessee. Notwithstanding anything to the contrary herein, the Agent agrees, for the direct benefit of Lessee, that so long as no Event of Default has occurred and is continuing, the Agent and each Lender shall not take or cause to be taken any action contrary to Lessee's right to quiet enjoyment of, or otherwise interrupt or interfere with, Lessee's continuing possession, use and operation of, any Item of Equipment in accordance with the terms of the Lease or the exercise of any of Lessee's other rights under the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Mortgage to be executed by their respective duly authorized representatives as of the day and year first above written.

Borrower:

NBB BETHLEHEM LEASE CO., LTD.

By: _____
Name: Leonard B. Shavel
Title: Attorney-in-fact

Lender:

THE SUMITOMO BANK, LIMITED, NEW YORK BRANCH, as Agent

By: _____
Name: Robert A. Rabbino, Jr.
Title: Joint General Manager

COMMONWEALTH OF PENNSYLVANIA:
SS
COUNTY OF PHILADELPHIA :

On this, the 30 day of January, 1991, before me, a notary public, personally appeared Leonard B. Shavel, who acknowledged himself to be the Attorney-in-fact of NBB Bethlehem Lease Co., Ltd., and that he, as such Attorney-in-fact, being duly empowered and authorized to do so, executed the within instrument for the purposes therein contained, by signing his name as such Attorney-in-fact.

In witness whereof, I hereunto set my hand and official seal.

(NOTARIAL SEAL)

Rosemary Pasquariello
Notary Public

My Commission Expires:

NOTARIAL SEAL
Rosemary Pasquariello, Notary Public
City of Philadelphia, Phila County
My Commission Expires May 16 1992

COMMONWEALTH OF PENNSYLVANIA:
SS
COUNTY OF PHILADELPHIA :

On this, the 30 day of January, 1991, before me, a notary public, personally appeared Robert A. Rabbino, Jr., who acknowledged himself to be the Joint General Manager of The Sumitomo Bank, Limited, New York Branch, and that he, as such Joint General Manager, being duly empowered and authorized to do so, executed the within instrument for the purposes therein contained, by signing his name as such Joint General Manager.

In witness whereof, I hereunto set my hand and official seal.

(NOTARIAL SEAL)

Rosemary Pasquariello
Notary Public

My Commission Expires:

NOTARIAL SEAL
Rosemary Pasquariello, Notary Public
City of Philadelphia, Phila County
My Commission Expires May 16 1992

# UNION PACIFIC RAILROAD COMPANY
# NBB BETHLEHEM LEASE CO., LTD.
# FINANCING OF TWENTY-SEVEN GENERAL MOTORS CORPORATION (ELECTRO-MOTIVE DIVISION) SD-60 DIESEL ELECTRIC LOCOMOTIVES

The definitions stated herein shall apply equally to both the singular and plural forms of the terms defined.

"Affiliate" of any Person means any other Person directly or indirectly controlling, controlled by or under common control with such Person.

"Agent" means The Sumitomo Bank, Limited, New York Branch, as Agent for the Lenders under the Loan Agreement and the other Operative Documents, and any successor Agent appointed pursuant to Section 8.7 of the Loan Agreement.

"Agreement," "this Agreement," "hereof," "hereby," or any other like term means, unless the context requires otherwise, the agreement in which such term is used, including all annexes, exhibits, schedules, and supplements thereto, as such agreement may be amended, modified or supplemented from time to time.

"Applicable Laws" means all rules, regulations and orders issued by the ICC, the Department of Transportation and any other government or instrumentality, subdivision or agency thereof having jurisdiction and relating to the registration, operation, maintenance and service of the Items of Equipment.

"Assignment Agreement" means the Assignment Agreement, dated as of January 31, 1991, between Lessee, as assignor, and Lessor, as assignee, including the Consent and Agreement annexed thereto, as such Assignment Agreement may hereafter be amended, modified or supplemented.

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement referred to in Section 19 of the Participation Agreement.

"Assumed Obligations" has the meaning set forth in Section 19 of the Participation Agreement.

"Assumption Event" means the exercise by Lessee of its option to purchase the Items of Equipment pursuant to Section 9 or Section 15 of the Lease, if in connection with such purchase Lessee shall have assumed the obligations of Lessor for repayment of the Loan in accordance with Section 19 of the Participation Agreement.

"Bank Event of Default" means each of the events described in Section 5.1(a) through (f) of the Loan Agreement, subject to the provisions of such Section.

"Bank Security Agreement" means the Bank Security Agreement, dated as of January 31, 1991, between Borrower and The Sumitomo Bank, Limited, New York Branch, as Agent, providing for the grant by Borrower of a pledge of and security interest in the Collateral in favor of the Agent for the ratable benefit of the Lenders.

"Basic Rent" for the Items of Equipment means the rent payable to Lessor for the Items of Equipment pursuant to Section 3(b) of the Lease in the amounts and payable on the dates set forth in Schedule A to the Lease.

"Basic Termination Payment" means, with respect to any termination of the Lease pursuant to Section 9 or 15 of the Lease, the amount computed and payable as provided in Schedule B to the Lease.

"Bill of Sale" means a full warranty bill of sale executed by the Manufacturer for all of the Items of Equipment.

"Borrower" means Lessor and its successors and permitted assigns.

"Business Day" means any day excluding Saturday, Sunday and any other day which shall be in New York, New York, Tokyo, Japan or London, England, a legal holiday or a day on which banking institutions are authorized by law or other governmental actions to close.

"Casualty Value Termination Payment" means, with respect to any termination of the Lease with respect to one or more Items of Equipment pursuant to Section 10 of the Lease, the amount computed and payable as provided in Schedule C to the Lease.

"Change in Law" means any change in, deletion from, or amendment or addition to, Japanese Tax Law occurring on or after the Delivery Date, regardless of whether such change, deletion, amendment or addition has been discussed or proposed prior to the Delivery Date.

"Claims" has the meaning set forth in Section 20(a) of the Lease.

"Closing" means the execution and delivery of the initial Lease Supplement by the parties thereto.

"Closing Date" means the date of the Closing.

"Code" means the Internal Revenue Code of 1986, as in effect on the date hereof or as hereafter amended.

"Collateral" has the meaning set forth in Section 2.1 of the Bank Security Agreement.

"Consent and Agreement" means the Consent and Agreement of the Manufacturer, dated as of January 31, 1991, annexed to the Assignment Agreement, as such Consent and Agreement may hereafter be amended, modified or supplemented.

"Custodian" means Morgan, Lewis & Bockius, a Pennsylvania general partnership, and its successors and permitted assigns.

"Custodian Agreement" means the Custodian Agreement, dated as of January 31, 1991, among the Custodian, Lessor and Lessee.

"Deficiency Payment" means the amount set forth in Schedule E to the Lease.

"Delivery Date" means the date of the initial Lease Supplement for the Items of Equipment, which date shall be the date on which the Items of Equipment are delivered to and accepted by Lessor under the Assignment Agreement and Purchase Agreement and Lessor leases the Items of Equipment to Lessee pursuant to the Lease.

"Deposit" has the meaning assigned to that term in the Pledge Agreement.

"Dollar" or "$" means the lawful currency of the United States of America.

"Dollar Account" means the account of Lessor, account no. 210595, with The Sumitomo Bank, Limited, Tokyo Main Office.

"Eligible Assignee" means (i) any United States branch of a bank organized and existing under the laws of Japan, (ii) any Japanese branch of a bank

organized and existing under the laws of the United States or any state thereof, or the District of Columbia, or (iii) any Japanese branch of a bank organized under the laws of any country; provided, that at the time of any transfer of any interest in the Loan or any Operative Document by any Lender to such Japanese branch of such bank, payments of interest made by a United States resident directly to such bank in its country of organization would not result in the imposition of, or require the payment of, United States withholding taxes (whether due to the absence of such taxes or the existence of an applicable tax treaty reducing such taxes to a rate of zero).

"Enforcement Date" has the meaning set forth in Section 9 of the Mortgage.

"Event of Default" has the meaning set forth in Section 14 of the Lease.

"Event of Loss" with respect to any property means any of the following events with respect to such property: (i) loss of the use of such property due to (x) theft or disappearance, or any other reason not covered elsewhere in this definition, for a period in excess of six months, or (y) destruction, damage beyond repair or rendition of such property permanently unfit for normal use for any reason whatsoever; (ii) any damage to such property which results in an insurance settlement with respect to such property on the basis of a total loss; (iii) the condemnation or requisition of title to such property by the Government or any other governmental authority; (iv) as a result of any rule, regulation, order or other action by the ICC, the Department of Transportation or other governmental body of the United States of America or any other governmental authority having jurisdiction, the use of such property in the normal course of rail transportation shall have been prohibited for a period of 12 consecutive months, unless Lessee, prior to the expiration of such 12-month period, shall have undertaken and shall be diligently carrying forward all steps which in its judgment are necessary or desirable to permit the normal use of such property by Lessee or, in any event, if such use shall have been prohibited for a period of 18 consecutive months; (v) the operation or location of such property, while under requisition for use by the Government or any other governmental authority, in any area excluded from coverage by any insurance policy in effect with respect to such property required by the terms of Section 11 of the Lease, if Lessee shall be unable to obtain indemnity in lieu thereof from the Government; or (vi) the confiscation, seizure or requisition of use of such property by the Government or any other governmental authority for a period in excess of 18 consecutive months or for a period continuing beyond the Term.

"Excepted Interests" means (i) any indemnity payments and interest thereon paid or payable to Lessor under any Operative Document which do not

constitute Collateral, (ii) proceeds of public liability insurance in respect of the Items of Equipment paid or payable as a result of insurance claims made, or losses suffered by, the Lessor, (iii) proceeds of insurance maintained in respect of the Items of Equipment by or for the benefit of the Lessor and not required under Section 11 of the Lease, (iv) any amounts paid or payable in Yen under any Operative Document, (v) any amounts paid or payable to the Lessor under any Operative Document to reimburse the Lessor for expenses incurred by it in exercising its rights under, or performing or complying with any of the obligations of the Lessee under, any Operative Document, (vi) any payments or other amounts which would otherwise constitute Mortgaged Property or Collateral, which have been released from the Lien of the Mortgage or the Bank Security Agreement, as the case may be, (vii) the right to exercise inspection rights pursuant to Section 12 of the Lease, (viii) the right to approve as satisfactory any accountants, engineers, counsel, or other Persons to render services for or issue opinions to the Lessor pursuant to express provisions of the Operative Documents, (ix) the right as Lessor to seek specific performance of the covenants of the Lessee under the Lease relating to the protection, insurance and maintenance of the Items of Equipment and to maintain separate insurance with respect to the Items of Equipment pursuant to Section 11 of the Lease; (x) the right to demand, collect, sue for or otherwise receive and enforce the payment of any Excepted Interests; and (xi) the right to amend, settle or reduce the amount of any claim payable to Lessor as an Excepted Interest.

"Excluded Event" means any of the following events:

(i) any sale, assignment, transfer or other disposition (whether voluntary or involuntary) by the Lessor or any Kumiai-in of any interest in any Item of Equipment or any Part, or in the Lessor or any Tokumei Kumiai Agreement or the business of the Tokumei Kumiai contemplated thereunder except pursuant to Section 15 of the Lease and except for any such sale, assignment, transfer or other disposition pursuant to the terms of Section 8, 9, 10 or 19 of the Lease or otherwise resulting from any act or omission of the Lessee;

(ii) the failure of the Lessor or any Kumiai-in to have sufficient income to benefit from the deductions referred to in paragraph (i) of the definition of Tax Assumption;

(iii) the failure of the Lessor or any Kumiai-in to claim or cause to be claimed in a timely manner any of the deductions referred to in paragraph (i) of the definition of Tax Assumption;

(iv) the breach by the Lessor of any of its representations, warranties or covenants contained in the Participation Agreement or the Lease; and

(v) the occurrence of an Event of Loss with respect to any Item of Equipment.

"Excluded Taxes" has the meaning set forth in Section 3.8 of the Loan Agreement.

"Government" means the government of the United States of America and any instrumentality, subdivision or agency thereof, except that for the purpose of the indemnity referred to in clause (v) of the definition of "Event of Loss," those instrumentalities, subdivisions and agencies included within the definition of "Government" shall be only those instrumentalities, subdivisions and agencies the obligations of which bear the full faith and credit of the United States of America.

"ICC" means the Interstate Commerce Commission and any agency or instrumentality of the United States government succeeding to its functions.

"Indemnified Person" means any Person identified as such in Section 20(b) of the Lease.

"Initial Storage Period" has the meaning set forth in Section 5(d) of the Lease.

"Interest Payment Date" means the last day of a Lease Period.

"Item of Equipment" means (i) each of the twenty-seven General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotives (or an improved model of the same Manufacturer) listed by Lessee's road numbers 6216 through 6242, inclusive, in the Lease Supplement executed and delivered on the Delivery Date; (ii) any Replacement Item of Equipment which may from time to time be substituted, pursuant to Section 8(a) or 10(a) of the Lease, for an Item of Equipment leased under the Lease; and (iii) any and all Parts incorporated or installed in or attached to such Item of Equipment and any and all Parts removed from such Item of Equipment so long as title thereto shall remain vested in Lessor in accordance with the terms of Section 8 of the Lease after removal from the Item of Equipment. The term "Items of Equipment" also means, as of any date of determination, all Items of Equipment then leased under the Lease.

"Japanese Tax Law" means the Tax Act and all official interpretations thereof, and published decisions and rulings (tsutatsu) and administrative guidance (gyoseishido) by the National Tax Administration Agency and other relevant government agencies and all judicial precedents and decisions of national or local offices of the National Tax Tribunal applicable thereto.

"Kumiai-in" means any Person who is a party to a Tokumei Kumiai Agreement with Lessor and any transferee of such Person entered on Lessor's Record of Ownership for the purposes of the Operative Documents and the transactions contemplated thereby.

"Lease Agreement" or "Lease" means the Lease Agreement, dated as of January 31, 1991, between Lessor and Lessee, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Lease Expiry Date" means the day immediately preceding the fourteenth anniversary of the Delivery Date; provided, that where any amount is expressed to be payable on the Lease Expiry Date, for such purposes only the Lease Expiry Date means the fourteenth anniversary of the Delivery Date.

"Lease Period" means each of (x) the period commencing on and including the Delivery Date and ending on and including the first Lease Period Date, and (y) each period commencing on and including the day immediately following the prior Lease Period Date (other than the last) and ending on and including the next subsequent Lease Period Date.

"Lease Period Date" means each of the Lease Period Dates listed on Schedule A to the Lease.

"Lease Supplement" means the Lease Supplement, substantially in the form of Exhibit A to the Lease, to be entered into between Lessor and Lessee on the Delivery Date for the purpose of leasing the Items of Equipment under and pursuant to the terms of the Lease, any amendment to the Lease Supplement and any subsequent Lease Supplement executed and delivered in connection with a Replacement Item of Equipment.

"Lender" means (a) The Sumitomo Bank, Limited, a banking institution organized under the laws of Japan, acting through its branch in New York, New York, as long as such institution is registered pursuant to Section 7.11 of the Loan Agreement, and (b) any other Lender which is registered pursuant to Section 7.11 of the Loan Agreement.

"Lessee" means Union Pacific Railroad Company, a Utah corporation, and its successors and permitted assigns.

"Lessee's Record of Ownership" means the Lessee's record of ownership required to be kept by the Lessee pursuant to Section 13(c) of the Lease.

"Lessor" means NBB Bethlehem Lease Co., Ltd., a corporation organized under the laws of Japan, and its successors and permitted assigns.

"Lessor Security Agreement" means the Lessor Security Agreement, dated as of January 31, 1991, between Lessor and Lessee, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Lessor's Cost" for each Item of Equipment means an amount equal to $1,472,785.00.

"Lessor's Event of Default" shall have the meaning set forth in Section 22(b) of the Lease Agreement.

"Lessor's Liens", with respect to any Operative Document except the Loan Agreement, the Mortgage and the Bank Security Agreement, means any Liens on or relating to or affecting any Item of Equipment or any Part arising as a result of (i) claims against or affecting Lessor or any Kumiai-in, other than claims arising (A) solely from Lessor's participation in the transactions contemplated by the Lease, the Participation Agreement or any other Operative Document or (B) in connection with the Refunding Mortgage; (ii) acts or omissions of Lessor or any Kumiai-in not expressly permitted under the terms of the Lease, the Participation Agreement or any other Operative Document; (iii) Taxes imposed against Lessor or any Kumiai-in which are not indemnified against by Lessee pursuant to the Participation Agreement; or (iv) claims against Lessor or any Kumiai-in arising out of the voluntary transfer (other than pursuant to Sections 9, 10, 15 or 19 of the Lease) by Lessor (without the consent of Lessee) of its interest in any Item of Equipment or the Lease or by such Kumiai-in of its interest in the Tokumei Kumiai Agreement to which it is a party or any right to receive payment thereunder or any interest in the business of the Tokumei Kumiai contemplated thereunder.

"Lessor's Liens", with respect to the Loan Agreement, the Mortgage and the Bank Security Agreement, means any Liens on or relating to or affecting the Collateral or the Mortgaged Property arising as a result of (i) claims against or affecting Lessor or any Kumiai-in, other than claims arising (A) solely from Lessor's participation in the transactions contemplated by the Lease, the Participation Agreement or any other Operative Document or (B) in connection with the Refunding Mortgage; (ii) acts or omissions of Lessor or any Kumiai-in not expressly permitted under the terms of the Lease, the Participation Agreement or any other Operative Document; (iii) Taxes imposed against Lessor or any Kumiai-in which are not indemnified against by Lessee pursuant to the Participation Agreement; or (iv) claims against Lessor or any Kumiai-in arising out of the voluntary transfer (other than pursuant to Sections 9, 10, 15 or 19 of the Lease) by

Lessor (without the consent of Agent) of its interest in any Item of Equipment or the Lease or by such Kumiai-in of its interest in the Tokumei Kumiai Agreement to which it is a party or any right to receive payment thereunder or any interest in the business of the Tokumei Kumiai contemplated thereunder.

"Lessor's Record of Ownership" has the meaning set forth in Section 11(e)(v) of the Participation Agreement.

"LIBOR Break Funding Costs" means, as of any date, that amount reasonably determined by any Lender to be sufficient to compensate it for any loss, cost or expense attributable to any payment or prepayment of principal on the portion of the Loan then held by such Lender if such date is not an Interest Payment Date (or the Business Day next preceding the relevant Interest Payment Date if such Interest Payment Date is not a Business Day).

"Lien" means any mortgage, pledge, lien, charge, encumbrance, lease, assignment, exercise of rights, security interest or claim.

"Loan" means the loan made by The Sumitomo Bank, Limited, New York Branch, to Borrower pursuant to the Loan Agreement in an amount equal to U.S. $31,812,156.00, which sum is approximately 80% of the aggregate Lessor's Cost for all Items of Equipment, or the amount outstanding under the Loan Agreement at any time.

"Loan Agreement" means the Loan Agreement, dated as of January 31, 1991, between Borrower and The Sumitomo Bank, Limited, New York Branch, as Lender and as Agent, and all annexes, supplements and exhibits thereto, all as amended and supplemented from time to time pursuant to the Loan Agreement and Section 20 of the Participation Agreement.

"Loan Date" means the date upon which the Loan is made available to Borrower, which date shall be the Closing Date.

"Loan Guaranty" means the Loan Guaranty Agreement, dated as of January 31, 1991, between NBB and The Sumitomo Bank, Limited, New York Branch, as Agent, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Loan Payment Dates" means Lease Period Dates.

"Loan Payment Installment" means the amount of Dollars due and payable on the chronologically corresponding Loan Payment Date, as set forth on Schedule A to the Loan Agreement.

"LSA Collateral" has the meaning set forth in Section 2 of the Lessor Security Agreement.

"Manufacturer" means General Motors Corporation (Electro-Motive Division), a Delaware corporation, and its successors and assigns.

"Monthly Date", with respect to Schedules B and D to the Lease and Schedule B to the Loan Agreement, means each date set forth in any such Schedule.

"Mortgage" means the Mortgage, Assignment and Security Agreement, dated as of January 31, 1991, between Lessor and The Sumitomo Bank, Limited, New York Branch, as Agent, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Mortgaged Property" has the meaning set forth in Section 2 of the Mortgage.

"Mutually Acceptable Arrangement" has the meaning set forth in Section 3.9 of the Loan Agreement.

"National Tax Administration Agency" means the "National Tax Administration Agency" (Kokuzeicho) of Japan and includes any national tax administration regional bureau (Kokuzeikyoku) and national tax local office (Zeimusho) and any successor agencies.

"NBB" means Nomura Babcock & Brown Co., Ltd., a corporation organized under the laws of Japan, and its successors and permitted assigns.

"NBB Guaranty" means the Guaranty Agreement, dated as of January 31, 1991, between NBB and Lessee, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Obsolete Parts" has the meaning set forth in Section 8(b) of the Lease.

"Officer's Certificate" means, with respect to any entity, a certificate signed by any Person authorized by or pursuant to the organizational documents, by-laws or any board resolution (in the case of a corporation), partnership agreement (in the case of a partnership), or trust agreement (in the case of a trust) to execute, deliver and take all actions on behalf of such entity in respect of any of the Operative Documents.

"Operative Document" means each of the Participation Agreement, the Lease, each Lease Supplement, the Lessor Security Agreement, the NBB Guaranty, the Loan Agreement, the Loan Guaranty, the Mortgage, the Bank Security Agreement, the Assignment Agreement, the Custodian Agreement, the Pledge Agreement and the Bill of Sale.

"Overdue Rate" means (i) with respect to payments required to be made in U.S. Dollars or, if no currency is specified with respect to a payment, payments in fact made in U.S. Dollars, 10.5% per annum, and (ii) with respect to payments required to be made in Yen or, if no currency is specified with respect to a payment, payments in fact made in Yen, 7.03% per annum.

"Participation Agreement" means the Participation Agreement, dated as of January 31, 1991, among Lessee, Lessor and The Sumitomo Bank, Limited, New York Branch, as Lender and as Agent, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Parts" means all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature that at any time of determination are incorporated or installed in or attached to an Item of Equipment or the ownership of and title to which remains vested in Lessor in accordance with Section 8 of the Lease after removal therefrom.

"Payment Acknowledgment" shall have the meaning set forth in Section 9(e)(ii) of the Lease.

"Permitted Liens" means any Lien of the type described in clauses (a) through (i) of Section 6 of the Lease.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency, instrumentality or political subdivision thereof.

"Pledge Agreement" means the Pledge Agreement, dated as of January 31, 1991, between the Lessee and the Lessor, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Potential Event of Default" means any occurrence or event which, with the passage of time or the giving of notice or both, would become an Event of Default.

"Purchase Agreement" means the Term Sheet and Reliability Guarantee dated July 8, 1988, between the Manufacturer and the Lessee, as amended by letters dated February 23, 1989 and April 19, 1990, to the extent

applicable to the Items of Equipment, providing, among other things, for the manufacture and sale by the Manufacturer to the Lessee of the Items of Equipment, as such Purchase Agreement has been amended, modified or supplemented to the date hereof.

"Purchase Price" shall mean the amount set forth in Schedule E of the Lease.

"Refunding Mortgage" means the Refunding Mortgage, dated June 1, 1940, between the Lessee and Chase Manhattan Bank, N.A., as amended through the date hereof.

"Rent" means Basic Rent and Supplemental Rent.

"Replacement Item of Equipment" means a General Motors Corporation (Electro-Motive Division) SD-60 diesel electric locomotive or an improved model of the Manufacturer or an equivalent or better model of another manufacturer, which shall have been leased pursuant to clause (i) of Section 10(a) of the Lease, together with all Parts relating thereto.

"Required Lenders" means, at any time, Lenders to which at least 66 2/3% of the aggregate principal amount of the Loan is owed (excluding Lessor, Lessee and their respective Affiliates); provided, however, that "Required Lenders" shall mean all Lenders then participating in the Loan in the case of any amendment of or supplement to any of the Operative Documents or waiver or modification of the terms of, or consent under, any thereof, which shall (i) modify the definitions of an Event of Default or Bank Event of Default or the remedies available following the occurrence of any thereof, (ii) reduce the amount or change the time of payment of any of the principal of or interest due with respect to the Loan or alter or modify the provisions of the Loan Agreement with respect to distributions made by the Agent to each Lender, (iii) reduce, modify or amend any indemnities in favor of the Lenders, (iv) consent to any change in any Operative Document which would permit prepayment of the Loan earlier than permitted under the Loan Agreement as originally in effect, (v) except as contemplated by the Lease or any other Operative Document, reduce the amount or extend the time of payment of any amounts required to be paid in U.S. Dollars by Lessee under the Lease which are to be paid into the Dollar Account, or release the Lessee from its obligations in respect of such payments or alter the absolute or unconditional character of the obligations of the Lessee to make such payments as set forth in the Lease as originally in effect, or (vi) release any property included within the Lien of the Mortgage or the Bank Security Agreement.

"Restated Loan Agreement" means the Amended and Restated Loan Agreement referred to in Section 19 of the Participation Agreement.

"Restated Mortgage" means the Amended and Restated Mortgage referred to in Section 19 of the Participation Agreement.

"Secured Obligations" means, collectively, the obligations from time to time of Borrower to Lender under and in respect of the principal of and interest on the Loan heretofore or hereafter made by it under the Loan Agreement and all other amounts from time to time due and payable by Borrower under the Loan Agreement, the Mortgage or the Bank Security Agreement.

"Security Period" means the period commencing on the Delivery Date and terminating on the date on which all Secured Obligations have been paid in full or the Loan has been assumed by Lessee pursuant to Section 19 of the Participation Agreement and any Secured Obligations not so assumed have been paid in full.

"Selling Costs" means all reasonable costs and expenses incurred by Lessor in connection with a sale or attempted sale of the Items of Equipment, pursuant to Section 15 or 19 of the Lease, including the costs and expenses of any agent retained by Lessor in connection with such sale.

"Special Termination Payment" means, with respect to any termination of the Lease with respect to all of the Items of Equipment pursuant to Section 9 or 15 thereof or any termination of the Lease with respect to one or more Items of Equipment pursuant to Section 10 thereof, the amount computed and payable as provided in Schedule D to the Lease.

"Specified Event" means each of the following events:

(a) a Lessor Event of Default; and

(b) Lessor shall fail to comply with any of its obligations under Section 4(b) of the Lease and such failure shall continue unremedied for a period of 30 days after the receipt by Lessor of written notice of such failure given by Lessee.

"Specified Exchange Rate" means the exchange rate of U.S. $1.00 equals 131.65 (Yen).

"Statement" means a Statement in the form of Exhibit E to the Participation Agreement.

"Sumitomo" means The Sumitomo Bank, Limited, New York Branch.

"Supplemental Rent" means all amounts, liabilities and obligations (other than Basic Rent) which Lessee assumes or agrees to pay under the Lease, the Payment Acknowledgment or the Participation Agreement to Lessor or others, including, without limitation, Casualty Value Termination Payments, Basic Termination Payments, Special Termination Payments, Purchase Price or Deficiency Payment, as the case may be, and payment of indemnities (including, without limitation, under Section 11 of the Participation Agreement).

"Swap Break Amount" means, as of any Swap Termination Date, the amount that would be required to be paid by Sumitomo to the Swap Counterparty (a positive Swap Break Amount) or by the Swap Counterparty to Sumitomo (a negative Swap Break Amount) pursuant to Section 6(d) of the Swap Form, as calculated pursuant to Section 6(e) thereof assuming a Termination Event (as defined in the Swap Form) had occurred for the portion of the principal amount of the Loan being prepaid. Solely for the purposes of determining the application of proceeds pursuant to Clause "Fifth" of Section 5.2 of the Bank Security Agreement and Clause "Fifth" of Section 5 of the Mortgage, if the Lien of the Mortgage or the Bank Security Agreement is foreclosed as a result of an Event of Default under the Lease, the total amount of Swap Break Loss to be paid, or Swap Break Gain to be applied, under the Mortgage and the Bank Security Agreement shall not exceed four percent of the aggregate of Lessor's Cost of the Items of Equipment.

"Swap Break Gain" for the principal amount of the Loan being prepaid means the absolute value of the Swap Break Amount for such principal amount when such Swap Break Amount is a negative number.

"Swap Break Loss" for the principal amount of the Loan being prepaid means the absolute value of the Swap Break Amount for such principal amount when such Swap Break Amount is a positive number.

"Swap Counterparty" means Sumitomo Bank Capital Markets, Inc.

"Swap Form" means the standard form of Interest Rate and Currency Exchange Agreement published in 1987 by, and incorporating by reference therein the definitions and provisions contained in the 1987 Interest Rate and Currency Exchange Definitions of, the International Swap Dealers Association, Inc.

"Swap Termination Date" means any date on which a Swap Breakage Gain or a Swap Breakage Loss may be payable under the Operative Documents.

"Swap Transaction" means the interest rate swap transaction between Sumitomo and the Swap Counterparty governed by the Swap Form. The economic terms of the Swap Transaction are set forth in the Fixed Rate Loan Rate Confirmation dated January 24, 1991 between Sumitomo and the Lessee.

"Tax Act" means the Corporation Tax Law of Japan (Law No. 34 of 1965, as amended) and the regulations implemented thereunder, the provisions of the Income Tax Law of Japan (Law No. 33 of 1965, as amended) concerning withholding tax and the regulations implemented thereunder, the Consumption Tax Law of Japan (Law No. 108 of 1988) and the regulations implemented thereunder, the provisions of the Local Tax Law of Japan (Law No. 276 of 1950, as amended) concerning corporate enterprise tax and inhabitants tax and the regulations implemented thereunder, the Special Taxation Measures Law of Japan (Law No. 2 of 1957, as amended), and treaties, laws and regulations which affect the application and interpretation of, or amend, supplement, or replace, any provision of the Corporation Tax Law of Japan, the Consumption Tax Law of Japan, the Income Tax Law of Japan, the Local Tax Law of Japan, or the Special Taxation Measures Law or any regulation implemented thereunder.

"Tax Assumption" means any of the following assumptions regarding the treatment of the transactions contemplated by the Operative Documents for purposes of Japanese Tax Law:

(i) the Lessor will be allowed deductions for:

(x) all interest payable by the Lessor under the Loan Agreement, which shall be treated as being deductible on an accrual basis in the tax period of the Lessor in which the same is payable under the Loan Agreement;

(y) all other costs, fees and expenses incurred by the Lesso in connection with entering into the Operative Documents (other than a reserve fo future costs and expenses related to the maintenance of the Tokumei Kumiai in th amount of $50,000, which shall be amortized over the term of the Lease on a straight line basis), which shall be treated as deductible on an accrual basis in the tax period of the Lessor in which the same are incurred; and

(z) depreciation on each Item of Equipment calculated on a monthly basis at the rate of 9.9% per semi-annual period on the undepreciated portion of the Lessor's Cost (using the declining balance method of depreciation), and commencing as from the tax period of the Lessor in which the Delivery Date occurs and so that in respect of such tax period depreciation of 9.9% will be allowed, until the undepreciated portion of Lessor's Cost is equal to 5.0% thereof and any remaining balance will be allowed as a deduction upon sale or other final disposition of such Item of Equipment;

(ii) the deductions referred to in subparagraph (i) above will not subsequently be disallowed; and

(iii) the net income or the net loss of the Lessor with respect to the transactions contemplated by the Operative Documents shall, for purposes of Japanese Tax Law, be passed through without withholding or deduction to each Kumiai-in in proportion to such Kumiai-in's interest in the business of the Tokumei Kumiai.

"Tax Indemnitee" means Lessor and each Kumiai-in and each of their respective Affiliates, directors, officers, employees, servants, agents, successors and permitted assigns, and, solely for the purposes of Section 11(a) of the Participation Agreement and so much of Section 11(c) of the Participation Agreement as relates to Section 11(a) of the Participation Agreement, the term "Tax Indemnitee" also includes any Lender.

"Tax Loss" means the occurrence of any of the following events as evidenced by an opinion of nationally recognized tax counsel or independent tax advisor to the Lessor, a copy of which shall be provided to the Lessee:

(i) as a result of a Change in Law or Tax Ruling, any assumption referred to in paragraph (i) or (ii) of the definition of Tax Assumption proves to be or becomes incorrect or inapplicable, or

(ii) as a result of a Change in Law or a change after the Delivery Date in the Japanese Commercial Code any assumption referred to in paragraph (iii) of the definition of Tax Assumption proves to be or becomes incorrect or inapplicable.

"Tax Ruling" means any tax ruling, tax assessment, notice, instruction, explanation or any other determination by the Japanese tax authorities given to Lessor or any Kumiai-in in writing which tax ruling, tax assessment, notice, instruction, explanation or other determination is inconsistent with the prevailing interpretations or practices of the Japanese leasing industry as of the Delivery Date.

"Taxes" means all license, registration and filing fees and all taxes, withholdings, assessments, levies, imposts, duties or charges of any nature whatsoever, together with any penalties, fines or interest thereon or other additions thereto imposed, withheld, levied or assessed by any country or any taxing authority or governmental subdivision thereof or therein or by any international authority.

"Term" means the term for which the Items of Equipment are leased as provided in Section 3(a) of the Lease and Section 4 of the initial Lease Supplement relating to the Items of Equipment.

"Termination Date" means the date specified as such in Section 9 or 15 of the Lease with respect to all of the Items of Equipment, or the date specified as such in Section 10 of the Lease with respect to one or more Items of Equipment, each of which dates shall be a Business Day; provided, that only for purposes of determining the date on which the Basic Termination Payment and Special Termination Payment is payable pursuant to Section 15(d) of the Lease, the Termination Date shall be the 15th day after the declaration referred in such Section 15(d).

"Tokumei Kumiai" means the tokumei kumiai, as such term is described in the Japanese Commercial Code (including, without limitation, Articles 535 through 542 thereof), created pursuant to the Tokumei Kumiai Agreements.

"Tokumei Kumiai Agreement" means each of the separate agreements entered into or to be entered into by Lessor, in its capacity as proprietor and manager of the investment made by its investors (or Kumiai-in) substantially the same, in form and substance, as the form of the Tokumei Kumiai Agreement attached as Exhibit F to the Participation Agreement and containing the covenants described in Section 8 of the Participation Agreement.

"Treaty" means the Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, which came in force on July 9, 1972, as in effect on the Delivery Date.

"U.S. Dollars" or "U.S. $" means lawful money of the United States of America.

"U.S. Withholding Taxes" has the meaning ascribed thereto in Section 3.8 of the Loan Agreement.

"United States Taxes" means any Taxes imposed, withheld, levied or assessed by any federal, state or local government or taxing authority of or in the United States of America.

"Unwind Events" has the meaning ascribed thereto in Section 9(e)(ii) of the Lease.

"Yen" (¥) means lawful money of Japan.

"Yen Account" means the account of Lessor with The Daiwa Bank, Limited, Nihonbashi Branch, Ordinary Account, account no. 7262473.

Exhibit A
to
Mortgage, Assignment and Security Agreement

## FORM OF ACKNOWLEDGMENT

Union Pacific Railroad Company
Martin Tower
Eighth & Eaton Avenues
Bethlehem, PA 18018

Date: January 31, 1991

To Those Concerned:

We hereby inform you by this letter that, pursuant to the terms of the Mortgage, Assignment and Security Agreement, dated as of January 31, 1991 (the "Mortgage"), between The Sumitomo Bank, Limited, New York Branch, as Agent ("Agent"), and NBB Bethlehem Lease Co., Ltd. ("Borrower"), Borrower has, inter alia, assigned to the Agent for the ratable benefit of the Lenders, the right, title and interest of Borrower in and to the Lease Agreement, dated as of January 31, 1991 (the "Lease"), between Borrower, as Lessor, and Union Pacific Railroad Company, as Lessee, under the conditions set forth in the Mortgage.

Please acknowledge your receipt of this notification and consent to the assignment of the Lease described above by signing the enclosed copy of this letter.

Yours faithfully,

NBB BETHLEHEM LEASE CO., LTD.

By _____
Name: Leonard B. Shavel
Title: Attorney-in-fact

We hereby acknowledge receipt of the foregoing notification and unconditionally consent to the foregoing assignment of the Lease.

UNION PACIFIC RAILROAD COMPANY

By _____
Name: John B. Larsen
Title: Assistant Treasurer