

RECORDATION NO. 10559-4  
Filed 1425

JUN 29 1979 - 1 22 PM

INTERSTATE COMMERCE COMMISSION  
GRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

212 HANOVER 2-3000

TELEX

RCA 233663  
WUD 125547  
WUI 620976

MAURICE T. MOORE  
BRUCE BROMLEY  
WILLIAM B. MARSHALL  
RALPH L. MCAFEE  
ROYALL VICTOR  
ALLEN H. MERRILL  
HENRY W. DE KOSMIAN  
ALLEN F. MAULSBY  
STEWART R. BROSS, JR.  
HENRY P. RIORDAN  
JOHN R. HUPPER  
SAMUEL C. BUTLER  
WILLIAM J. SCHRENK, JR.  
BENJAMIN F. CRANE  
FRANCIS F. RANDOLPH, JR.  
JOHN F. HUNT  
GEORGE J. GILLESPIE, III  
RICHARD S. SIMMONS  
WAYNE E. CHAPMAN  
THOMAS D. BARR  
MELVIN L. BEDRICK  
GEORGE T. LOWY  
ROBERT ROSENMAN

JAMES H. DUFFY  
ALAN J. HRUSKA  
JOHN E. YOUNG  
JAMES M. EDWARDS  
DAVID G. ORMSBY  
DAVID L. SCHWARTZ  
RICHARD J. HIEGEL  
FREDERICK A. O. SCHWARZ, JR.  
CHRISTINE BESHAR  
ROBERT S. RIFKIND  
DAVID O. BROWNWOOD  
PAUL M. DODYK  
RICHARD M. ALLEN  
THOMAS R. BROME  
ROBERT D. JOFFE  
ROBERT F. MULLEN  
ALLEN FINKELSON  
RONALD S. ROLFE  
JOSEPH R. SAHID  
PAUL C. SAUNDERS  
MARTIN L. SENZEL  
DOUGLAS D. BROADWATER  
ALAN C. STEPHENSON

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INTERSTATE COMMERCE COMMISSION

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TELEX: 290530

33 THROMMORTON STREET  
LONDON, EC2N 2BR, ENGLAND  
TELEPHONE 01-606-1421  
TELEX: 8814901

CABLE ADDRESSES  
GRAVATH, N. Y.  
GRAVATH, PARIS  
GRAVATH, LONDON E. C. 2

No. 9-100-1000

Date JUN 29 1979

Fee \$ 50.00

ICC Washington, D. C.

June 19, 1979

Peavey Company

Lease Financing Dated as of April 1, 1979

9.9% Conditional Sale Indebtedness Due October 31, 1994

[CS&M Ref.: 4876-009]

Dear Mr. Homme:

Pursuant to 49 U.S.C. § 11303(a), I enclose herewith on behalf of Peavey Company, for filing and recordation, counterparts of the following:

(a) Lease of Railroad Equipment dated as of April 1, 1979, between Peavey Company and Chemical Bank; and

(b) Assignment of Lease and Agreement dated as of April 1, 1979, by and between Chemical Bank and La Salle National Bank.

The addresses of the parties to the aforementioned agreements are:

Lessor-Vendee

Chemical Bank  
55 Water Street  
New York, N. Y. 10041

FEE OPERATION BR.  
I.C.C.

JUN 29 12 59 PM '79

RECEIVED

10559  
Counterparts to C&M

Lessee

Peavey Company  
 730 Second Avenue South  
 Minneapolis, Minnesota 55402

Agent-Vendor-Assignee

La Salle National Bank  
 135 South LaSalle Street  
 Chicago, Illinois 60690

The equipment covered by the aforementioned agreements consists of the following:

125 Pullman Incorporated (Pullman Standard Division) 100-ton covered hopper cars, 4,750 c.f. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 1075-PVGX 1199, both inclusive;

12 North American Car Corporation 100-ton covered hopper cars, 2,785 c.f. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 508-PVGX 519, both inclusive;

8 North American Car Corporation ~~100-ton~~ covered hopper cars, 3,915 C.F. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 500-PVGX 507, both inclusive; and

75 Pullman Incorporated (Pullman Standard Division) 100-ton covered hopper cars, 4,750 c.f. cap, AAR Mechanical Designation LO, bearing identifying numbers PVGX 1000-PVGX 1074, both inclusive.

Please cross-index the Lease of Railroad Equipment and the Assignment of Lease and Agreement with the following documents which are being filed simultaneously:

- (A) Conditional Sale Agreement No. 1 dated as of April 1, 1979, among Chemical Bank, North American Car Corporation and Pullman Incorporated (Pullman Standard Division), Recordation No. 10556 ;
- (B) Agreement and Assignment No. 1 dated as of April 1, 1979, among Pullman Incorporated (Pullman Standard Division), North American Car Corporation and La Salle National Bank, Recordation No. 10556-A,

JUN 29 1979 - 1 20 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 1, 1979 (this "Assignment"), by and between CHEMICAL BANK (the "Lessor" or the "Vendee") and LA SALLE NATIONAL BANK, as Agent (the "Vendor"), under a Participation Agreement dated as of the date hereof.

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof (the "CSA-1") with NORTH AMERICAN CAR CORPORATION ("NAC") and PULLMAN INCORPORATED (Pullman Standard Division ("Pullman") providing for the sale to NAC by Pullman, and the conditional sale to the Vendee by NAC of such units of railroad equipment described in Annex B thereto as are accepted by NAC and the Vendee, respectively, thereunder;

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof (the "CSA-2") with NAC providing for the sale to the Vendee of such units of railroad equipment described in Annex B thereto as are accepted by the Vendee thereunder;

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof (the "CSA-3") with Railway Marketing Corporation ("RMC") and Pullman providing for the sale to RMC by Pullman, and the conditional sale to the Vendee by RMC, of such units of railroad equipment described in Annex B thereto as are accepted by RMC and the Vendee, respectively, thereunder;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes referred to individually as a "CSA" and collectively as the "CSAs" and the equipment described in the Annexes B to the CSAs are herein called the "Units";

WHEREAS the Lessor and PEAVEY COMPANY (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the CSAs and as an inducement to the Vendor to invest in the CSA Indebtedness (as defined in Paragraph 4.3(b) of the CSAs), the Lessor agrees to assign

for security purposes certain of its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the CSAs, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise, except (i) any indemnity paid or payable to the Lessor pursuant to § 6 or § 12 of the Lease which is not required to be paid over under any CSA to the Vendor, (ii) any liability insurance proceeds payable to the Lessor pursuant to § 7 of the Lease and (iii) any increases in rental payments which may be required by the Indemnity Agreement (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the CSAs, and, so long as no event of default or event which with the lapse of time and/or demand provided for in any CSA could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire to the Lessor at such address as may be specified to the Vendor

in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any Payment when due, the Vendor shall immediately notify the Lessor by telephone and confirm such notice in writing to the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the CSAs.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void. If an event of default should occur under any CSA which would entitle the Vendor to terminate the Lease, the Vendor may terminate the Lease or rescind its termination without affecting the indemnities which by the provisions of the Lease survive the expiration of its term, all as provided in the Lease.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any pro-

ceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Lessor under the CSAs, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums due from the Lessor under the CSAs have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

8. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor. The Vendor shall furnish to the Lessor such information as shall be reasonably requested by the Lessor in order to permit the Lessor to act under the Lease or to prepare its tax returns.

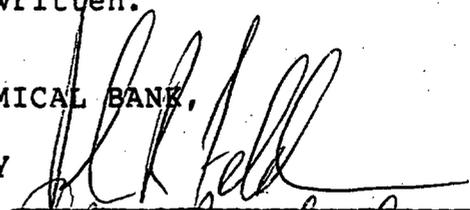
10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under any CSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the CSAs, the

Lessor may, so long as no event of default under any CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies arising out of § 13.1(a) of the Lease; provided, however, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of § 13.1(b) of the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

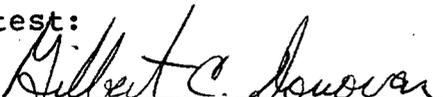
CHEMICAL BANK,

by

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

[Seal]

Attest:

  
\_\_\_\_\_  
Authorized Officer

LA SALLE NATIONAL BANK, as Agent,

by

\_\_\_\_\_

[Corporate Seal]

Attest:

\_\_\_\_\_  
Authorized Officer



## CONSENT AND AGREEMENT

The undersigned, PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all Payments (as defined in the Lease Assignment) due and to become due under the Lease directly to LA SALLE NATIONAL BANK, as Agent (the "Vendor"), the assignee named in the Lease Assignment, at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Lessee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Minnesota and, for all purposes, shall be construed in

accordance with the laws of said State.

PEAVEY COMPANY,

by

---

[Corporate Seal]

Attest:

---

Assistant Secretary

ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 1, 1979 (this "Assignment"), by and between CHEMICAL BANK (the "Lessor" or the "Vendee") and LA SALLE NATIONAL BANK, as Agent (the "Vendor"), under a Participation Agreement dated as of the date hereof.

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof (the "CSA-1") with NORTH AMERICAN CAR CORPORATION ("NAC") and PULLMAN INCORPORATED (Pullman Standard Division ("Pullman") providing for the sale to NAC by Pullman, and the conditional sale to the Vendee by NAC of such units of railroad equipment described in Annex B thereto as are accepted by NAC and the Vendee, respectively, thereunder;

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof (the "CSA-2") with NAC providing for the sale to the Vendee of such units of railroad equipment described in Annex B thereto as are accepted by the Vendee thereunder;

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof (the "CSA-3") with Railway Marketing Corporation ("RMC") and Pullman providing for the sale to RMC by Pullman, and the conditional sale to the Vendee by RMC, of such units of railroad equipment described in Annex B thereto as are accepted by RMC and the Vendee, respectively, thereunder;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes referred to individually as a "CSA" and collectively as the "CSAs" and the equipment described in the Annexes B to the CSAs are herein called the "Units";

WHEREAS the Lessor and PEAVEY COMPANY (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the CSAs and as an inducement to the Vendor to invest in the CSA Indebtedness (as defined in Paragraph 4.3(b) of the CSAs), the Lessor agrees to assign

for security purposes certain of its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the CSAs, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise, except (i) any indemnity paid or payable to the Lessor pursuant to § 6 or § 12 of the Lease which is not required to be paid over under any CSA to the Vendor, (ii) any liability insurance proceeds payable to the Lessor pursuant to § 7 of the Lease and (iii) any increases in rental payments which may be required by the Indemnity Agreement (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the CSAs, and, so long as no event of default or event which with the lapse of time and/or demand provided for in any CSA could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire to the Lessor at such address as may be specified to the Vendor

in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any Payment when due, the Vendor shall immediately notify the Lessor by telephone and confirm such notice in writing to the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the CSAs.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void. If an event of default should occur under any CSA which would entitle the Vendor to terminate the Lease, the Vendor may terminate the Lease or rescind its termination without affecting the indemnities which by the provisions of the Lease survive the expiration of its term, all as provided in the Lease.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any pro-

ceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Lessor under the CSAs, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums due from the Lessor under the CSAs have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

8. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor. The Vendor shall furnish to the Lessor such information as shall be reasonably requested by the Lessor in order to permit the Lessor to act under the Lease or to prepare its tax returns.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under any CSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the CSAs, the

Lessor may, so long as no event of default under any CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies arising out of § 13.1(a) of the Lease; provided, however, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of § 13.1(b) of the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

CHEMICAL BANK,

by

\_\_\_\_\_

[Seal]

Attest:

\_\_\_\_\_  
Authorized Officer

LA SALLE NATIONAL BANK, as Agent,

by

\_\_\_\_\_

[Corporate Seal]

Attest:

\_\_\_\_\_  
Authorized Officer

STATE OF NEW YORK, )  
 ) ss.:  
 COUNTY OF NEW YORK, )

On this            day of            1979, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a            of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

---

Notary Public

[Notarial Seal]

My Commission expires

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

On this            day of            1979, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a            of LA SALLE NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

---

Notary Public

[Notarial Seal]

My Commission expires

## CONSENT AND AGREEMENT

The undersigned, PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all Payments (as defined in the Lease Assignment) due and to become due under the Lease directly to LA SALLE NATIONAL BANK, as Agent (the "Vendor"), the assignee named in the Lease Assignment, at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department (or at such other address as may be furnished in writing to the Lessee by the Vendor);

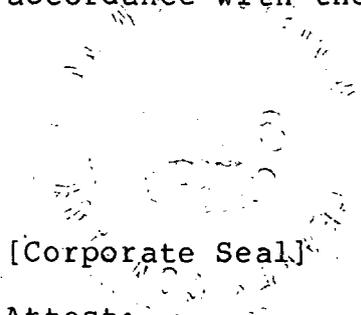
(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Lessee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Minnesota and, for all purposes, shall be construed in

accordance with the laws of said State.



PEAVEY COMPANY,

by

*J. M. ...*

[Corporate Seal]

Attest:

*Therese ...*  
Assistant Secretary

ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 1, 1979 (this "Assignment"), by and between CHEMICAL BANK (the "Lessor" or the "Vendee") and LA SALLE NATIONAL BANK, as Agent (the "Vendor"), under a Participation Agreement dated as of the date hereof.

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof (the "CSA-1") with NORTH AMERICAN CAR CORPORATION ("NAC") and PULLMAN INCORPORATED (Pullman Standard Division ("Pullman") providing for the sale to NAC by Pullman, and the conditional sale to the Vendee by NAC of such units of railroad equipment described in Annex B thereto as are accepted by NAC and the Vendee, respectively, thereunder;

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof (the "CSA-2") with NAC providing for the sale to the Vendee of such units of railroad equipment described in Annex B thereto as are accepted by the Vendee thereunder;

WHEREAS the Vendee is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof (the "CSA-3") with Railway Marketing Corporation ("RMC") and Pullman providing for the sale to RMC by Pullman, and the conditional sale to the Vendee by RMC, of such units of railroad equipment described in Annex B thereto as are accepted by RMC and the Vendee, respectively, thereunder;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes referred to individually as a "CSA" and collectively as the "CSAs" and the equipment described in the Annexes B to the CSAs are herein called the "Units";

WHEREAS the Lessor and PEAVEY COMPANY (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Lessor under the CSAs and as an inducement to the Vendor to invest in the CSA Indebtedness (as defined in Paragraph 4.3(b) of the CSAs), the Lessor agrees to assign

for security purposes certain of its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the CSAs, all the Lessor's right, title and interest, powers, privileges and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise, except (i) any indemnity paid or payable to the Lessor pursuant to § 6 or § 12 of the Lease which is not required to be paid over under any CSA to the Vendor, (ii) any liability insurance proceeds payable to the Lessor pursuant to § 7 of the Lease and (iii) any increases in rental payments which may be required by the Indemnity Agreement (such moneys being hereinafter called the "Payments"), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the CSAs, and, so long as no event of default or event which with the lapse of time and/or demand provided for in any CSA could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor by bank wire to the Lessor at such address as may be specified to the Vendor

in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any Payment when due, the Vendor shall immediately notify the Lessor by telephone and confirm such notice in writing to the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the CSAs.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void. If an event of default should occur under any CSA which would entitle the Vendor to terminate the Lease, the Vendor may terminate the Lease or rescind its termination without affecting the indemnities which by the provisions of the Lease survive the expiration of its term, all as provided in the Lease.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any pro-

ceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Lessor under the CSAs, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. Promptly following such full discharge and satisfaction, the Vendor agrees that it will advise the Lessee in writing that all sums due from the Lessor under the CSAs have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Vendor.

6. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments reasonably requested by the Vendor in order to confirm or further assure, the interest of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

8. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

9. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor. The Vendor shall furnish to the Lessor such information as shall be reasonably requested by the Lessor in order to permit the Lessor to act under the Lease or to prepare its tax returns.

10. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under any CSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment, except the right to receive and apply the Payments as provided in Paragraph 1 hereof, and that, subject to the terms of the Lease and the CSAs, the

Lessor may, so long as no event of default under any CSA has occurred and is then continuing, exercise or enforce, or seek to exercise or enforce, its rights, powers, privileges and remedies arising out of § 13.1(a) of the Lease; provided, however, that the Lessor shall not, without the prior written consent of the Vendor, terminate the Lease or otherwise exercise or enforce, or seek to exercise or enforce, any rights, powers, privileges and remedies arising out of § 13.1(b) of the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

CHEMICAL BANK,

by

\_\_\_\_\_

[Seal]

Attest:

\_\_\_\_\_  
Authorized Officer

LA SALLE NATIONAL BANK, as Agent,

by

*[Handwritten Signature]*

\_\_\_\_\_

Vice Pres.

[Corporate Seal]

Attest:

*[Handwritten Signature]*  
\_\_\_\_\_  
Authorized Officer

STATE OF NEW YORK, )  
 ) ss.:  
COUNTY OF NEW YORK, )

On this            day of            1979, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a            of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

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

[Notarial Seal]

My Commission expires

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

On this 22 day of June 1979, before me personally appeared E. K. WEBER, to me personally known, who, being by me duly sworn, says that he is a VICE PRESIDENT of LA SALLE NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Patricia M. Kennedy  
Notary Public

[Notarial Seal]

My Commission expires

My Commission Expires August 24, 1982

## CONSENT AND AGREEMENT

The undersigned, PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), the lessee named in the Lease (the "Lease") referred to in the foregoing Assignment of Lease and Agreement (the "Lease Assignment"), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all Payments (as defined in the Lease Assignment) due and to become due under the Lease directly to LA SALLE NATIONAL BANK, as Agent (the "Vendor"), the assignee named in the Lease Assignment, at 135 South LaSalle Street, Chicago, Illinois 60690, attention of Corporate Trust Department (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Lessee by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the State of Minnesota and, for all purposes, shall be construed in

accordance with the laws of said State.

PEAVEY COMPANY,

by

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[Corporate Seal]

Attest:

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Assistant Secretary