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Filed 1425

RECORDATION NO. JUN 29 1979-1 20 PM
INTERSTATE COMMERCE COMMISSION

CRAVATH, SWAINE & MOORE

10558

RECORDATION NO. Filed 1425

JUN 29 1979-1 20 PM

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NEW YORK, N.Y. 10005

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No. 9-1801026

Date JUN 29 1979

Fee \$ 60.00

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 here-with on behalf of Peavey Company, for filing and recordation, counterparts of the following:

(1) (a) Conditional Sale Agreement No. 3 dated as of April 1, 1979, among Chemical Bank, Railway Marketing Corporation and Pullman Incorporated (Pullman Standard Division);

(b) Agreement and Assignment No. 3 dated as of April 1, 1979, among Pullman Incorporated (Pullman Standard Division), Railway Marketing Corporation and La Salle National Bank.

The addresses of the parties to the aforementioned agreements are:

Vendee-Lessor

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

FEE OPERATION BR.
I.C.C.

JUN 29 12 59 PM '79

RECEIVED

Handwritten: Counterparts to C. D. Homme
New Number 10558
-A

Vendor

Railway Marketing Corporation
450 Park Avenue,
New York, N. Y. 10022

Builder-Vendor

Pullman Incorporated (Pullman Standard Division)
200 South Michigan Avenue
Chicago, Illinois 60604

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:

75 100-ton covered hopper cars, 4750 c.f. cap,
AAR Mechanical Designation LO, bearing identifying
numbers PVGX 1000-PVGX 1074, both inclusive.

Enclosed is our check for \$50 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt addressed to the undersigned.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
As Agent for Peavey Company

H. G. Homme, Jr., Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423.

Encls.

10558

RECORDATION NO. Filed 1425

JUN 29 1979 - 1 20 PM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 4876-009]

CONDITIONAL SALE AGREEMENT
No. 3

Dated as of April 1, 1979

among

CHEMICAL BANK,

Vendee,

RAILWAY MARKETING CORPORATION,

Vendor,

and

PULLMAN INCORPORATED
(Pullman Standard Division),

Builder.

CONDITIONAL SALE AGREEMENT

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

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CONDITIONAL SALE AGREEMENT No. 3 dated as of April 1, 1979, among PULLMAN INCORPORATED (Pullman Standard Division), a Delaware corporation (the "Builder"), RAILWAY MARKETING CORPORATION, a Delaware corporation ("RMC" or the "Vendor" as the context may require, all as more particularly set forth in Paragraph 1.3 hereof), and CHEMICAL BANK, a New York banking corporation (the "Vendee").

WHEREAS the Builder agrees to construct, sell and deliver to RMC, and RMC has agreed to purchase from the Builder and conditionally sell to the Vendee, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto, to the extent not excluded herefrom under the provisions hereof (the "Equipment" as more specifically described in Paragraph 4.2 hereof);

WHEREAS the Vendee is entering into a lease with Peavey Company, a Minnesota corporation (the "Lessee"), in substantially the form annexed hereto as Annex C (the "Lease"); and

WHEREAS LA SALLE NATIONAL BANK (the "Assignee") is acting as agent for a certain investor (the "Investor" and, together with any assignees, collectively the "Investors") pursuant to a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Assignee, the Vendee and the party named in Appendix I thereto.

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

ARTICLE 1

ASSIGNMENT; DEFINITIONS

1.1. Contemplated Sources of Purchase Price; Assignment. The parties hereto contemplate that the Vendee will furnish 26.565479% of the Vendee Purchase Price (as defined in Paragraph 4.1 hereof) of the Equipment and that

an amount equal to the balance of such Vendee Purchase Price shall be paid to RMC by the Assignee pursuant to an Agreement and Assignment No. 3 dated as of the date hereof (the "CSA Assignment") among RMC, the Builder and the Assignee. RMC will pay to the Builder the RMC Purchase Price (as defined in Paragraph 4.1 hereof) pursuant to the terms of Paragraph 4.4 hereof.

1.2 Lease Assignment. The Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, certain of the rights, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto (the "Lease Assignment").

1.3. Meaning of "Builder" and "Vendor". The term "Builder", whenever used in this Agreement, means, both before and after any assignment of its rights hereunder, the party hereto which has manufactured the units of Equipment to be constructed and sold hereunder and any successor or successors for the time being to its manufacturing properties and business. The term "Vendor", whenever used in this Agreement, means, before any such assignment, RMC, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights, as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. Any reference herein to this Agreement or any other agreement shall mean said agreement and all amendments and supplements hereto or thereto then in effect.

1.4. Purchase Order. It is understood and agreed that any contractual arrangements between RMC and Pullman, insofar as they relate to the Equipment described in Annex B hereto ("Purchase Order No. 3") shall be superseded by this Agreement, and the obligations of the Vendee to purchase and pay for said Equipment shall be exclusively and completely governed by, and subject to, the conditions provided herein.

ARTICLE 2

CONSTRUCTION AND SALE

The Builder shall construct the Equipment at its plant described in Annex B hereto, and will sell and deliver the Equipment to RMC, RMC will purchase from the Builder and accept delivery of the Equipment and immediately thereafter and without placing the Equipment into service will conditionally sell and deliver the Equipment to the Vendee, and the

Vendee will purchase from RMC and accept delivery of and pay for the Equipment. Each unit of Equipment shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, RMC, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The Builder represents and warrants that (i) the design, quality and component parts of each unit of the Equipment to be delivered by the Builder under this Agreement shall conform, on the date of delivery and acceptance thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, (ii) none of such component parts will be used components, (iii) none of such units will have been used so as to preclude the original use thereof by the Vendee within the meaning of Sections 48(b)(2) and 167(c)(2) of the Internal Revenue Code of 1954 (as amended)(the "Code") and (iv) each unit of the Equipment will be "new section 38 property" within the meaning of the Code when acquired by the Vendee.

ARTICLE 3

INSPECTION AND DELIVERY

3.1. Place of Delivery. The Builder will deliver to RMC and RMC will immediately thereafter deliver to the Vendee the units of the Equipment at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that the Builder shall not have any obligation to deliver any unit of Equipment hereunder to RMC, and RMC shall not have any obligation to deliver any unit of Equipment hereunder to the Vendee, subsequent to the commencement of any proceedings specified in clause (c) or (d) of Paragraph 16.1 hereof; subsequent to the occurrence of any event of default (as described in Paragraph 16.1 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default; or subsequent to any notice to RMC that the Assignee does not have on deposit, pursuant to the Participation Agreement, sufficient funds available to make payment for such units as provided in Section 4 of the Assignment or shall not make, or has not made, payment for any unit assigned to it pursuant to the Assignment, unless

RMC has been assured to its satisfaction that it will receive on the Closing Date (as defined in Paragraph 4.2 hereof) the full Vendee's Purchase Price (as defined in Paragraph 4.1 hereof) thereof. The Builder and RMC agree not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Vendee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid or (b) until it receives notice (i) from the Assignee that the conditions contained in Paragraph 6 of the Participation Agreement have been met and (ii) from the Vendee that the conditions contained in Paragraph 7 of the Participation Agreement have been met.

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

3.3. Exclusion of Equipment. Any Equipment not delivered pursuant to Paragraph 3.1 hereof and any Equipment not delivered and accepted hereunder for any reason on or before December 20, 1979, shall be excluded from this Agreement, and RMC and the Vendee shall be relieved of their respective obligations to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. In the event of any such exclusion of any unit of Equipment herefrom pursuant to the foregoing provisions of this Paragraph 3.3 or pursuant to Paragraph 4.1 hereof, or in the event RMC and the Vendee are relieved of their respective obligations hereunder to accept or pay for any or all units of Equipment in accordance with the terms and conditions hereof for any reason whatsoever, RMC will be obligated to accept all such units completed and delivered by the Builder and to pay the full purchase price therefor when due, all in accordance with the terms of its prior contractual arrangements with the Builder relating to the Equipment ("Purchase Order No. 3"). The Vendee agrees, upon any such exclusion, to take such steps, including the execution of instruments of transfer, as it may be reasonably requested by RMC for the purpose of acknowledging and perfecting the interest of RMC in any unit of Equipment so excluded

from this Agreement, and the Vendee shall have no further obligation or liability in respect of units so excluded.

3.4. Inspection. During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of RMC and the Vendee (who may be employees or agents of the Lessee), and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon or after completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector for RMC and the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications and requirements and standards applicable thereto, such inspector (who may be an employee or agent of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of RMC and the Vendee and are marked in accordance with paragraph 10.1 of Article 10 hereof; provided, however, that the Builder shall not thereby be relieved of any of its warranties set forth herein. By § 2 of the Lease, and by this paragraph 3.4, RMC and the Vendee, respectively, are appointing the Lessee its agent to inspect and accept delivery of the Equipment. Acceptance of any unit of Equipment by the Lessee (or its employees or agents, as aforesaid) pursuant to § 2 of the Lease shall be deemed to be acceptance of such unit by RMC and the Vendee.

3.5. Responsibilities of the Builder and RMC After Delivery. On delivery by the Builder to RMC and by RMC to the Vendee hereunder of a unit of Equipment and acceptance thereof hereunder at the place specified for delivery, the Builder and RMC shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of any of its warranties set forth herein.

ARTICLE 4

PURCHASE PRICE AND PAYMENT

4.1. Meaning of "Vendee Purchase Price"; Exclusion of Units. The base price or prices per unit of the Equipment to be paid by the Vendee to RMC are set forth in Annex B

hereto. Such base price or prices are subject to such increase or decrease as may be agreed to by RMC, the Vendee and the Lessee. The term "Vendee Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the invoice of RMC delivered to the Vendee, any freight or storage charges payable by the Vendee and, if the Vendee Purchase Price is other than the base price or prices set forth in said Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Vendee (such invoice or invoices being hereinafter called "RMC's Invoices"). The base price or prices per unit of the Equipment to be paid by RMC to the Builder are as set forth in Purchase Order No. 3. Such base price or prices are subject to such increase or decrease as may be agreed to by the Builder and RMC. The term "RMC Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the Builder's invoice or invoices delivered to RMC and, if the RMC Purchase Price is other than the base price or prices set forth in Purchase Order No. 3, the Builder's invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of RMC (such invoice or invoices being hereinafter called the "Builder's Invoices"). If on any Closing Date (as defined in Paragraph 4.2 hereof) the aggregate Vendee Purchase Price of Equipment for which settlement has theretofore been and is then being made would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as to which the Vendee and the Lessee may have agreed prior to the delivery of the Equipment being settled for on such Closing Date), the Builder, RMC (and any assignee of RMC) will enter into an agreement effective as of the date of acceptance thereof excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee and the Lessee, as will, after giving effect to such exclusion, reduce such aggregate Vendee Purchase Price to not more than said Maximum Purchase Price (or such higher amount as aforesaid) and the Vendee shall have no further obligation or liability in respect of units so excluded.

4.2. Settlement and Closing Dates. The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by each of RMC and the Vendee as is provided in Item 2 of Annex A hereto. The term "Closing Date" with respect to any Group (as hereinafter defined) shall be such date as is specified by the Lessee by 10 days' written notice thereof with the concurrence of

the Vendee, the Assignee, RMC and the Builder, but in no event shall such Date be later than December 31, 1979. Such notice shall specify the aggregate Vendee Purchase Price of such Group and a copy thereof shall be sent by the Lessee to the Builder, the Assignee and the Vendee. The term "Group", as used herein, shall mean the group of units of Equipment being settled for on any Closing Date. At least five business days prior to the Closing Date with respect to a Group of Equipment, the Builder shall present to RMC the Builder's Invoices, and RMC shall present to the Vendee and the Lessee RMC's Invoices, for the Equipment to be settled for. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, or New York, New York, are authorized or obligated to remain closed.

4.3. Indebtedness of Vendee to Vendor. Subject to the terms of this Agreement, the Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash or immediately available funds to the Vendor at such place as the Vendor may designate, the Vendee Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group an amount equal to 26.565479% of the aggregate Vendee Purchase Price of the units of Equipment in such Group; and

(b) in 60 quarterly installments in arrears, as hereinafter provided, an amount equal to the aggregate Vendee Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (said portion of the aggregate Vendee Purchase Price payable in installments under this subparagraph (b) is hereinafter called the "CSA Indebtedness").

4.4. Indebtedness to Builder. RMC hereby acknowledges itself to be indebted to the Builder in the amount of, and hereby promises to pay in full in cash to the Builder, on the Closing Date with respect to the Group, at such place as the Builder may designate, the RMC Purchase Price. Notwithstanding any provision herein to the contrary, in the event tht RMC refuses, or is unable for any reason (including its bankruptcy or insolvency), to perform its obligations pursuant to this Paragraph 4.4, the Vendee shall have the

right to perform such obligations and to pay the RMC Purchase Price to the Builder, in which event, for all purposes of this Agreement, the Vendee Purchase Price shall be deemed to be the RMC Purchase Price.

4.5. CSA Indebtedness; Payment Dates; Interest.

(1) The installments of the CSA Indebtedness shall be payable quarterly on January 31, April 30, July 31, and October 31 in each year, commencing January 31, 1980, to and including October 31, 1994, each such date being hereinafter called a "Payment Date". The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.9% per annum. Interest on the unpaid balance of the CSA Indebtedness shall be payable in arrears to the extent accrued on October 31, 1979, and on each Payment Date thereafter. The amounts of CSA Indebtedness payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto (subject to the provisions of Article 7 hereof) and the aggregate of such installments of principal shall completely amortize the CSA Indebtedness at maturity. The Vendee will furnish to the Vendor and the Lessee promptly after the last Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

(2) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the next succeeding business day.

4.6. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of 12 30-day months except that interest payable on October 31, 1979, shall be computed on an actual elapsed day, 365-day year, basis.

4.7. Penalty Interest. The Vendee will pay interest, to the extent legally enforceable, at the rate of 10.9% per annum (the "Penalty Rate") upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

4.8. Currency of Payment. All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 or Paragraph 16.1 hereof, the Vendee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

4.9. Liability of Vendee Limited to "Income and Proceeds from Equipment"; Meaning Thereof; Limitation on Execution of Judgments. Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof, except as set forth in this Paragraph 4.9), but not limiting the effect of Article 23 hereof, it is understood and agreed by the Builder and the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to Paragraph 4.3(a) hereof and the proviso to Paragraph 13.3 hereof, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the preceding sentence, the Builder and the Vendor agree that the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee or any assignee of the Vendee. As used herein the term "income and proceeds from the Equipment" shall mean

(i) if one of the events of default specified in Paragraph 16.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of any Casualty Occurrence (as defined in Paragraph 7.2 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 13 or any other provision of the Lease (except any indemnity paid or payable to the Vendee pursuant to § 6 or § 12 of the Lease which is not required to be paid over hereunder by the Vendee to the Vendor and any liability insurance

proceeds payable to the Vendee under § 7 of the Lease) and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition; and

(ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the CSA Indebtedness (including prepayments thereof required in respect of any Casualty Occurrence) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement;

it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were (1) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of any Casualty Occurrence) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease, or (2) are payable to the Vendee pursuant to a separate tax indemnity agreement between the Vendee and the Lessee. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment as provided for herein for the full unpaid Vendee Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5

SECURITY INTEREST IN THE EQUIPMENT

5.1. Vendor To Retain Security Interest; Accessories Are Part of Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease. Such retention of a security interest is solely to secure performance by the Vendee of its obligations under this Agreement (without regard to any provision of this Agreement limiting the liability of the Vendee), and, subject thereto, ownership of the Equipment shall upon delivery and acceptance pass to and remain in the Vendee subject to such performance. Any and all parts installed on and additions and replacements made to any unit of the Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit or (iii) which are required for the operation or use of such unit by the Association of American Railroads and/or the Interstate Commerce Commission, the United States Department of Transportation or any other applicable regulatory body, shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

5.2. Obligations upon Payment of CSA Indebtedness. Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Vendee Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute an instrument releasing its security interest in the Equipment and transferring such interest to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Vendee at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, recording

or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6

TAXES

6.1. General Tax Indemnification. Whether or not any of the transactions contemplated hereby are consummated, the Vendee agrees to pay, and to indemnify and hold the Vendor harmless from, all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Vendee, the Vendor, the Lessee or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Agreement, the CSA Assignment, the Lease, the Lease Assignment, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) Taxes of the United States or any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess

profits of the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or subdivision on its worldwide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any fees or compensation received by the Vendor; and (iii) Taxes which are imposed on or measured solely by the net income of the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Vendee has not agreed to pay or indemnify against pursuant to this Article 6; provided, however, that the Vendee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in Paragraph 6.2 hereof.

6.2. Claims; Contests; Refunds. If claim is made against the Vendor for any Taxes indemnified against under this Article 6, the Vendor shall promptly notify the Vendee. If reasonably requested by the Vendee in writing, the Vendor shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Vendee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Vendee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Vendor; provided that, no proceeding or actions relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Vendor in any such proceeding or action) without the prior written consent of the Vendor, which shall not be unreasonably withheld. If the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Vendee in connection with any such contest or an amount representing interest thereon, the Vendor shall pay the Vendee the amount of such refund or interest net of expenses; provided, however, that no event of default set forth in Paragraph 16.1 hereof and no event

both would constitute such an event of default shall have occurred and be continuing.

6.3. Reports or Returns. In case any report or return is required to be made with respect to any obligation of the Vendee under or arising out of this Article 6, the Vendee shall either make such report or return in such manner as will show the interests of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Vendee.

6.4. Survival. All of the obligations of the Vendee under this Article 6 shall survive and continue, notwithstanding payment in full of all other amounts due under this Agreement.

ARTICLE 7

MAINTENANCE AND CASUALTY OCCURRENCES

7.1. Maintenance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order and repair, ordinary wear and tear excepted.

7.2. Casualty Occurrences. In the event that any unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever or the Vendee Purchase Price of any unit shall have been refunded by the Builder pursuant to the Builder's patent indemnities therefor as set forth in Item 4 of Annex A hereto or any unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of the Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of the Lease (a "Casualty Occurrence"), the Vendee shall, promptly after it shall have received notice from the Lessee or has otherwise been informed that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of an installment on the CSA Indebtedness after such notice from the Lessee has been

received (each such date hereinafter called a "Settlement Date"), the Vendee shall, subject to the limitations contained in Paragraph 4.9 hereof, pay to the Vendor a sum equal to the Casualty Value (as defined in Paragraph 7.3 hereof) of such unit suffering a Casualty Occurrence as of such Settlement Date, together with an amount equal to accrued interest hereon as hereinafter provided. The Vendee shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of principal and interest due on such date in respect of CSA Indebtedness not being prepaid) to prepay, without penalty or premium, ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness, together with all interest accrued on the portion of the CSA Indebtedness being prepaid. The Vendee shall promptly cause to be furnished to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor and the Lessee may request, calculated as provided in Paragraph 4.5 hereof.

7.3. Casualty Value. The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Vendee Purchase Price thereof referred to in Paragraph 4.3(b) hereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit). For the purpose of this paragraph and Paragraph 7.4 hereof, each payment of the Vendee Purchase Price made pursuant to Article 4 hereof shall be deemed to be a payment with respect to each unit of Equipment in like proportion as the original Vendee Purchase Price of such unit bears to the aggregate original Vendee Purchase Price of all the Equipment.

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

in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

ARTICLE 8

INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any unit suffering a Casualty Occurrence, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Vendee; provided, however, that no event of default shall have occurred and be continuing hereunder and the Vendee shall have made payment of the Casualty Value of such unit to the Vendor. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 9

REPORTS AND INSPECTIONS

On or before March 31 in each year, commencing with the year 1980, the Vendee shall cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Vendee's and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10

MARKING OF EQUIPMENT

10.1. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered and marked as provided in § 5 of the Lease. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and

deposited by or on behalf of the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

10.2. No Designations of Ownership. Except as provided in paragraph 10.1 of this Article 10, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

ARTICLE 11

COMPLIANCE WITH LAWS AND RULES

During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will or will cause the Lessee to conform therewith at no expense to the Vendor; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor's counsel, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12

POSSESSION AND USE

12.1. Possession and Use of Equipment by Vendee. The Vendee, so long as an event of default shall not have

occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by RMC to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

12.2. Lease Permitted; Lease Subordinate; No Amendment or Termination. The Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall, except as provided in § 4.2 and § 15.2 of the Lease, be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended in any material respect or terminated (except in accordance with its terms) without the prior written consent of the Vendor, which consent shall not be unreasonably withheld.

ARTICLE 13

PROHIBITION AGAINST LIENS

13.1. Vendee To Discharge Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor's counsel, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

13.2. No Breach for Certain Liens. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

13.3. Article 13 Subject to Article 23 Except in Certain Instances. The obligations of the Vendee under this Article 13 are subject to the limitations contained in Article 23 hereof; provided, however, that the Vendee will pay or discharge any and all taxes, claims, liens, charges or security interests claimed by any party from, through or under the Vendee or its successors or assigns, not arising out of the transactions contemplated hereby or in other documents mentioned herein (but including net income taxes arising out of the receipt of rentals and other payments under the Lease and any other proceeds from the Equipment), which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment or the Vendee's interest in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such tax, claim, lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement.

ARTICLE 14

INDEMNITIES AND WARRANTIES

14.1. Indemnification. The Vendee shall pay, and shall protect, indemnify and hold the Vendor and any assignee hereof, and their respective successors, assigns, agents and servants (hereinafter called "Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including, without limitation, attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising, or alleged to arise out of this Agreement or the Equipment, including, without limitation, those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any unit of Equipment or portion thereof, (ii) any latent and other defects whether or not discoverable by the Vendee or the Vendor, (iii) any claim for patent, trademark or copy-

right infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Vendee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Agreement or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's retention of a security interest under this Agreement or the Lease Assignment; except that the Vendee shall not be liable to the Builder in respect of any of the foregoing matters to the extent liability in respect thereof arises from an act or omission of the Builder or is covered by the Builder's patent indemnification referred to in Paragraph 14.4 hereof. The Vendee shall be obligated under this Article 14, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Vendee under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Vendee may and, upon such Indemnified Person's request, will at the Vendee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Vendee and approved by such Indemnified Person and, in the event of any failure by the Vendee to do so, the Vendee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Vendee is required to make any payment under this Article 14, the Vendee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemni-

fied against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Vendee agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 14 by the Vendee, and provided that no event of default described in Paragraph 16.1 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (other than the Vendee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease shall be paid over to the Vendee to the extent necessary to reimburse the Vendee for indemnification payments previously made in respect of such matter.

14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Vendee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

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

14.4. Warranties of Builder; Patent Indemnities. The agreement of the parties relating to the Builder's warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 15

ASSIGNMENTS

15.1. Assignment by Vendee. Without the consent of the Vendor, the Vendee will not (a) transfer the right to possession of any unit of the Equipment (except to the Lessee pursuant to the Lease) or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement, except that the rights of the Vendee hereunder shall be assignable to any Affiliate of the Vendee but without relieving the Vendee of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Vendee hereunder shall be assignable to any other party so long as the Vendee shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and any assignee hereof, to indemnify the Vendor and any assignee hereof and to hold the Vendor and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor or any assignee hereof resulting from, or arising out of or in connection with such assignment. For the purposes of this Article 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the Vendee, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise.

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

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

15.4. No Setoff Against CSA Indebtedness upon Assignment. The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the assignee to the entire unpaid CSA Indebtedness in respect of the Vendee Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever by the Vendee arising out of any breach of any obligation of RMC or the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by RMC or the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee against and only against RMC or the Builder, as the case may be.

ARTICLE 16

DEFAULTS

16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration of CSA Indebtedness. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

- (a) the Vendee shall fail to pay or cause to be paid in full any sum payable by the Vendee when payment

thereof shall be due hereunder (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default shall continue for 15 days after the date such payment is due and payable;

(b) the Vendee or the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee), the Lease Assignment or any covenant, agreement, term or provision of the Participation Agreement made expressly for the benefit of the Vendor, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance;

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Vendee or the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement or the Lessee under the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) any other proceeding shall be commenced by or against the Vendee or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder or the Lessee under the Lease under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee under this Agreement or the Lessee under the Lease), and, unless such proceedings shall have been

dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement or the Lessee under the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then at any time after the occurrence of such an event of default, and so long as the same shall be continuing, the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, cause the term of the Lease immediately upon such notice to terminate (and the Vendee acknowledges the right of the Vendor to terminate the term of the Lease), provided, however, that such termination shall not be in derogation of or impair the rights of the Vendee or the Vendor (under the assignment thereof), as the case may be, to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of its rights and remedies under § 13 of the Lease (subject to the Vendor's rights to repossess and sell the Equipment as provided in this Agreement), including the rights of the Vendee or the Vendor (under the assignment thereof), as the case may be, to sue for and recover damages provided for in § 13 of the Lease upon the occurrence of an event of default under the Lease, and/or (ii) declare (a "Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Penalty Rate to the extent legally enforceable provided, however, that the Vendor shall not exercise its rights pursuant to this clause (ii) unless it shall exercise its right to terminate the Lease pursuant to the preceding clause (i) if, and to the extent, the Lease is

then terminable by the Vendor. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 23 hereof, wherever situated. The Vendee shall promptly notify the Vendor of any event of which it has knowledge which constituted, constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement. For this purpose, knowledge of the Vendee shall mean actual knowledge by a responsible employee or officer of its Specialized Leasing Department. In the case of an event of default under subparagraph (c) above, the Vendee shall have the option, for a period of 30 days after the commencement of such event of default to prepay, without penalty or premium, all, but not less than all, the outstanding CSA Indebtedness plus interest accrued to the date of such payment; it being understood, however, that unless and until the Vendee has unconditionally agreed with the Vendor by written notice to the Vendor to exercise such option, the Vendor may exercise its rights and remedies upon the occurrence of an event of default under this Agreement.

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

ARTICLE 17

REMEDIES

17.1. Vendor May Take Possession of Equipment. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, at any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for

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

17.2. Assembling of Equipment for Vendor. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged or which may have possession thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the same to be transported to any reasonable place, as directed by the Vendor.

During any storage period, the Lessee has agreed pursuant to § 14.1 of the Lease, at its own cost and expense, to insure, maintain and keep each such unit in good order and repair and to permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence to the agreement between the parties, and the Vendee acknowledges that upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled under the Lease as assignee of the rights of the Vendee thereunder to

a decree against the Lessee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any commercially reasonable manner.

17.3. Vendor May Dispose of or Retain Equipment.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as provided in Paragraph 17.1 hereof) may, at its election, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment and the Vendee shall have no further rights or obligations hereunder; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

17.4. Vendor May Sell Equipment; Vendee's Right of Redemption. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, at any time during the continuance of a Declaration of Default, the

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

17.5. Sale of Equipment by Vendor. Any sale hereunder may be held or conducted at Chicago, Illinois, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor or the Vendee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than 10 business days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. In addition, if such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within 10 business days after notice of the proposed sale

price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as provided in Paragraph 17.7 hereof), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

17.6. Effect of Remedies and Powers and Exercise Thereof. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity not inconsistent herewith, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

17.7. Deficiencies. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall, subject to the limitations of Paragraph 4.9 hereof and Article 23 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Penalty Rate, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of Paragraph 4.9 hereof and Article 23 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

17.8. Expenses. The Vendee will pay all reasonable fees, costs and expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations set forth in Paragraph 4.9 hereof and Article 23 hereof.

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

ARTICLE 18

APPLICABLE STATE LAWS

18.1. Conflict with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement (except such portion as relates to the sale of the Equipment by the Builder to RMC) shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 19

RECORDING

The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or

thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20

REPRESENTATIONS AND WARRANTIES OF BUILDER AND RMC

20.1. Each of RMC and the Builder hereby represents and warrants to RMC and the Vendee, and their respective successors and assigns, that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the other parties hereto, this Agreement is, insofar as the Builder or RMC is concerned, a legal, valid and existing agreement binding upon and enforceable against the Builder or RMC in accordance with its terms.

20.2. The Builder represents and warrants to RMC and the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, RMC will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

20.3. RMC represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Vendee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

20.4. Each of RMC and the Builder represents to each other and to the Vendee that it is not entering into

this Agreement, or into any other transaction contemplated by the Participation Agreement, directly or indirectly in connection with any arrangement or understanding by it in any way involving an employee benefit plan (other than a governmental plan) with respect to which it, or, insofar as is known to it, any party hereto or to the Participation Agreement is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974, as amended.

ARTICLE 21

ARTICLE AND PARAGRAPH HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

21.1. Article and Paragraph Headings for Convenience Only. All article and paragraph headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

ARTICLE 22

NOTICE

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

(a) to the Vendee, at Suite 1822, 55 Water Street, New York, New York 10041, attention of Manager, Specialized Leasing, with a copy to Benjamin D. Fein, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022,

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

(c) to RMC at Suite 1900, 450 Park Avenue, New York, New York 10022, Attention of President,

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

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

ARTICLE 23

IMMUNITIES; SATISFACTION OF UNDERTAKINGS

23.1. No Recourse Against Certain Persons. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

23.2. Satisfaction of Certain Covenants. The obligations of the Vendee under Paragraphs 7.1, 7.2, 17.2, 17.7 and 17.8 hereof, and under Articles 6, 9, 10, 11, 13, 14 and 19 hereof and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects (except as set forth in Paragraph 13.3 thereof), and be of no further force or effect insofar as they involve personal liability for money or performance or otherwise of the Vendee, other than out of "income and proceeds from the Equipment" (as defined in Paragraph 4.9 hereof), by the Lessee's execution and delivery of the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations hereunder or under the Lease; but if the same shall not be performed, they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's

undertakings under the Lease shall be effective unless joined in by the Vendor; provided, however, that the Vendor shall consent to any agreement in writing between the Lessee and the Vendee increasing or decreasing the rentals and casualty values payable pursuant to §§ 3 and 7 of the Lease so long as the amounts payable thereunder are not reduced below those necessary to satisfy the obligations of the Vendee hereunder, such consent to be given by the Vendor within 30 days of delivery of a copy of any such agreement to the Vendor. The Vendor hereby consents to the Indemnity Agreement (as defined in the Participation Agreement).

ARTICLE 24

LAW GOVERNING

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

ARTICLE 25

EXECUTION

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

IN WITNESS WHEREOF, the parties hereto have exe-

cuted or caused this instrument to be executed all as of the date first above written.

[Seal]

Attest:

Gilbert C. Donovan
Authorized Officer

CHEMICAL BANK,
by J.R. Feld
Vice President

[Corporate Seal]

Attest:

Assistant Secretary

PULLMAN INCORPORATED
(Pullman Standard Division),

by

Vice President-Freight Unit

[Corporate Seal]

Attest:

Assistant Secretary

RAILWAY MARKETING CORPORATION,

by

SCHEDULE I

Allocation Schedule of Each \$1,000,000 of CSA
 Indebtedness Payable in (i) One Interim Payment of
 Interest Only on October 31, 1979, and (ii) 60
 Quarterly Installments of Principal and Interest
 Commencing January 31, 1980

<u>Installment No.</u>	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Ending Principal</u>
	\$ *	\$ *	\$ -0-	\$1,000,000.00
1 31 Oct 79	35,076.65	24,750.00	10,326.65	989,673.35
2 31 Jan 80	35,076.65	24,494.42	10,582.23	979,091.12
3 30 Apr 80	35,076.65	24,232.51	10,844.14	968,246.98
4 31 Jul 80	35,076.65	23,964.11	11,112.54	957,134.44
5 31 Oct 80	35,076.65	23,689.08	11,387.57	945,746.87
6 31 Jan 81	35,076.65	23,407.23	11,669.42	934,077.45
7 30 Apr 81	35,076.65	23,118.42	11,958.23	922,119.22
8 31 Jul 81	35,076.65	22,822.45	12,254.20	909,865.02
9 31 Oct 81	35,076.65	22,519.16	12,557.49	897,307.53
10 30 Apr 82	35,076.65	22,208.36	12,868.29	884,439.24
11 31 Jul 82	35,076.65	21,889.87	13,186.78	871,252.46
12 31 Oct 82	35,076.65	21,563.50	13,513.15	857,739.31
13 31 Jan 83	35,076.65	21,229.05	13,847.60	843,891.71
14 30 Apr 83	35,076.65	20,886.32	14,190.33	829,701.38
15 31 Jul 83	35,076.65	20,535.11	14,541.54	815,159.84
16 31 Oct 83	35,076.65	20,175.21	14,901.44	800,258.40
17 31 Jan 84	35,076.65	19,806.39	15,270.26	784,988.14
18 30 Apr 84	35,076.65	19,428.46	15,648.19	769,339.95
19 31 Jul 84	35,076.65	19,041.16	16,035.49	753,304.46
20 31 Oct 84	35,076.65	18,644.29	16,432.36	736,872.10
21 31 Jan 85	35,076.65	18,237.58	16,839.07	720,033.03
22 30 Apr 85	35,076.65	17,820.82	17,255.83	702,777.20
23 31 Jul 85	35,076.65	17,393.74	17,682.91	685,094.29
24 31 Oct 85	35,076.65	16,956.08	18,120.57	666,973.72
25 31 Jan 86	35,076.65	16,507.60	18,569.05	648,404.67
26 30 Apr 86	35,076.65	16,048.02	19,028.63	629,376.04
27 31 Jul 86	35,076.65	15,577.06	19,499.59	609,876.45
28 31 Oct 86	35,076.65	15,094.44	19,982.21	589,894.24
29 31 Jan 87	35,076.65	14,599.88	20,476.77	569,417.47
30 30 Apr 87	35,076.65	14,093.08	20,983.57	548,433.90
31 31 Jul 87	35,076.65	13,573.74	21,502.91	526,930.99
32 31 Oct 87	35,076.65	13,041.54	22,035.11	504,895.88

* Interest only on the CSA Indebtedness shall be paid to the extent accrued on this date.

<u>Installment No.</u>	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Ending Principal</u>	
33	31 Jan 88	\$33,633.88	\$12,496.17	\$21,137.70	\$ 483,758.18
34	30 Apr 88	33,633.88	11,973.01	21,660.87	462,097.31
35	31 Jul 88	33,633.88	11,436.91	22,196.97	439,900.34
36	31 Oct 88	33,633.88	10,887.53	22,746.35	417,153.99
37	31 Jan 89	29,837.64	10,324.56	19,513.08	397,640.91
38	30 Apr 89	29,837.64	9,841.61	19,996.03	377,644.88
39	31 Jul 89	29,837.64	9,346.71	20,490.93	357,153.95
40	31 Oct 89	29,837.64	8,839.56	20,998.08	336,155.87
41	31 Jan 90	26,140.96	8,319.86	17,821.10	318,334.77
42	30 Apr 90	26,140.96	7,878.78	18,262.18	300,072.59
43	31 Jul 90	26,140.96	7,426.80	18,714.16	281,358.43
44	31 Oct 90	26,140.96	6,963.62	19,177.34	262,181.09
45	31 Jan 91	22,548.05	6,488.98	16,059.07	246,122.02
46	30 Apr 91	22,548.05	6,091.52	16,456.53	229,665.49
47	31 Jul 91	22,548.05	5,684.22	16,863.83	212,801.66
48	31 Oct 91	22,548.05	5,266.84	17,281.21	195,520.45
49	31 Jan 92	19,071.68	4,839.13	14,232.55	181,287.90
50	30 Apr 92	19,071.68	4,486.88	14,584.80	166,703.10
51	31 Jul 92	19,071.68	4,125.90	14,945.78	151,757.32
52	31 Oct 92	19,071.68	3,755.99	15,315.69	136,441.63
53	31 Jan 93	16,956.92	3,376.93	13,579.99	122,861.64
54	30 Apr 93	16,956.92	3,040.83	13,916.09	108,945.55
55	31 Jul 93	16,956.92	2,696.40	14,260.52	94,685.03
56	31 Oct 93	16,956.92	2,343.45	14,613.47	80,071.56
57	31 Jan 94	21,271.63	1,981.77	19,289.86	60,781.70
58	30 Apr 94	21,271.63	1,504.35	19,767.28	41,014.42
59	31 Jul 94	21,271.63	1,015.11	20,256.52	20,757.89
60	30 Oct 94	21,271.66	513.76	20,757.90	0.00
		<u>\$1,800,295.84</u>	<u>\$800,295.84</u>	<u>\$1,000,000.00</u>	<u>0.00</u>

Annex A
to
Conditional Sale Agreement

- Item 1: Pullman Incorporated (Pullman Standard Division), a Delaware corporation, 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in not more than two Groups of units of Equipment delivered to and accepted by RMC and the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 3: (a) Pullman Incorporated (Pullman Standard Division) ("Pullman") warrants to RMC and the Vendee that the Equipment will be built in accordance with the Specifications and requirements set forth in Article 2 of this Agreement. Pullman further warrants that the Equipment will be free from defects in material (except as to items or specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by Pullman) and workmanship under normal use and service. Pullman's obligation under this Item 3 is limited to making good at its factory any part or parts of any unit of such Equipment which shall, within one year after delivery of such unit of Equipment, be returned to Pullman with transportation charges prepaid and which Pullman's examination shall disclose to its satisfaction to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever occurs first; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance and compliance with Pullman's written instructions and any applicable Federal, state or local laws or regulations.

Pullman MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The rights of RMC and the Vendee under the foregoing warranty shall be their sole and exclusive remedy and Pullman will have no liability for lost profits or for indirect, incidental, consequential or commercial losses. This warranty is expressly in lieu

of all other warranties expressed or implied on the part of Pullman, except for its obligations and liabilities under Articles 2, 3, 4, 14 and 20 of this Agreement and Item 4 below. Pullman neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment.

Pullman further agrees that RMC and the Vendee as well as Pullman may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by Pullman for incorporation in the Equipment manufactured by Pullman for the breach of any warranty by the vendors with respect to such specialties. Pullman, RMC and the Vendee each agrees to notify the others prior to the assertion of any claim by them against any such vendors of specialties. If Pullman determines that it has no interest in any such claim asserted by the Vendee, Pullman agrees to assign to the Vendee, solely for the purpose of making and prosecuting any such claim, all the rights which Pullman has against such vendor for the breach of warranty or other representation respecting the Equipment manufactured by it. The word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

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

- Item 4: Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by Pullman, and articles and materials specified by the Lessee and not manufactured by Pullman, Pullman agrees to indemnify, protect and hold harmless the Lessee, the Vendee and RMC from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Lessee, RMC and the Vendee because of the use in or about

the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee, as a condition to its being a third party beneficiary hereof, will indemnify, protect and hold harmless Pullman from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Pullman because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by Pullman, or article or material specified by the Lessee and not manufactured by Pullman, which infringes or is claimed to infringe on any patent or other right. Pullman agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Lessee every claim, right and cause of action which Pullman has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article, or material specified by the Lessee and used by Pullman in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and Pullman further agrees to execute and deliver to the Lessee all and every such further assurances as may be reasonably requested by them more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Lessee, as a condition to its being a third party beneficiary hereof, will give notice to Pullman of any claim known to the Lessee on the basis of which liability may be charged against Pullman hereunder.

Item 5: The Maximum Purchase Price referred to in Article 4 of the Agreement is \$3,221,137.50.

Annex B
to
Conditional Sale Agreement

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100 Ton Covered Hopper Cars 4750 c.f. cap	I0	1027 2/15/79	Butler, Pa.	75	PVGX 1000- 1074	\$42,948.50	\$3,221,137.50	June-July 1979 at Butler, Pa.

ANNEX C
to
Conditional Sale Agreements

[CS&M Ref. 4876-009]

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1979

Between

PEAVEY COMPANY,

Lessee,

and

CHEMICAL BANK,

Lessor.

LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1979, between PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), and CHEMICAL BANK, a New York banking corporation (the "Lessor").

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof ("CSA-1") with Pullman Incorporated (Pullman Standard Division) ("Pullman") and North American Car Corporation, a Delaware corporation ("NAC"), wherein Pullman has agreed to manufacture, sell and deliver to NAC, and NAC has agreed to sell and deliver to the Lessor, units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof ("CSA-2") with NAC, wherein NAC has agreed to manufacture, sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof ("CSA-3") with Pullman and Railway Marketing Corporation, a Delaware corporation ("RMC") wherein Pullman has agreed to manufacture, sell and deliver to RMC and RMC has agreed to sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS NAC is assigning certain of its interests in CSA-1 and CSA-2, and RMC is assigning certain of its interests in CSA-3 to LA SALLE NATIONAL BANK acting as agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Vendor, the Lessor and Bankers Life Company;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes individually referred to as a "CSA" and collectively as the "CSAs" and the equipment described in Appendix A hereto is herein sometimes called the "Equipment";

WHEREAS the Lessee will agree to indemnify the Lessor pursuant to an Indemnity Agreement (the "Indemnity Agreement"), substantially in the form attached as Exhibit D to the Participation Agreement, between the Lessee and the Lessor, against certain losses, liabilities or expenses incurred or suffered by the Lessor;

WHEREAS the Lessee desires to lease such number of units of the railroad equipment as are settled for under the CSAs (the "Units") at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor will assign this Lease as security to the Vendor pursuant to an Assignment of Lease and Agreement (the "Lease Assignment") dated as of the date hereof;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent or such other amounts, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or the CSAs or against Pullman, NAC, RMC or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the

manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or the Vendor for any reason whatsoever.

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to each CSA. Each delivery of a Unit to the Lessor under a CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is so delivered to the Lessor. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor under the applicable CSA and on behalf of itself hereunder and execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the applicable CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. RENTALS

3.1. Amount and Date of Payment. (1) The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on October 31, 1979, and 60 consecutive quarterly payments payable, in arrears, on January 31, April 30, July 31 and October 31, in each year, commencing January 31, 1980, to and including October 31, 1994. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the

product of the Vendee Purchase Price (as defined in Paragraph 4.1 of the CSA) for each such Unit subject to this Lease multiplied by 0.02860822% for each day elapsed from and including the Closing Date (as defined in Paragraph 4.2 of the CSA) for such Unit to, but not including, October 31, 1979, and (b) the 60 quarterly rental payments shall each be in an amount equal to 2.6105% of the Vendee Purchase Price of each such Unit.

(2) In the event that there are any losses or liabilities arising out of or resulting from the Investments made pursuant to Paragraph 2 of the Participation Agreement, including, but not limited to, any Investment Deficiency in respect thereof, the rentals thereafter payable by the Lessee in respect of Units settled for concurrently with or after such losses, liabilities or deficiency arose shall be increased by such amount as shall, in the reasonable opinion of the Lessor, cause the Lessor's after-tax economic yields and cash flows, computed on the same assumptions, including tax rates, as were utilized by the Lessor in originally evaluating this transaction ("Net Economic Return") to equal the Net Economic Return that would have been realized by the Lessor if such loss or liability had not occurred.

(3) In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Lessor as rent amounts equal to the amounts required by the Lessor to make the payments provided for in the last sentence of the first paragraph and in the last paragraph of Paragraph 8 of the Participation Agreement on the dates required for such payments in said Paragraph 8 (without regard to the limitation of the obligation of the Lessor set forth therein) and the Lessor agrees to apply such rentals for such purposes.

(4) Anything in the foregoing provisions of this § 3.1 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3.1 on each rental payment date shall in no event be less than the principal and/or interest payment due on each such date pursuant to Article 4 of the CSAs.

3.2. Payments on Nonbusiness Days. If any of the rental payment dates referred to in § 3.1 is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois are authorized or obligated to remain closed.

3.3. Instructions To Pay Assignee. Upon execution and delivery of any lease assignment in writing and until the Lessee shall have been otherwise advised in writing, the Lessee shall pay all amounts so assigned in accordance with the instructions of any assignee.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit under a CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to CSAs. Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSAs. If an event of default should occur under any CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent (as defined in the Participation Agreement) and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 hereof.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in

the case of any Unit not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the CSAs. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSAs shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

5.2. Insignia of Lessee. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates, but the Lessee will not allow the name of any other person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. GENERAL TAX INDEMNIFICATION

Whether or not the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, hold harmless and indemnify on an after-tax basis the Lessor and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, additions to tax, assessments, fees,

withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties, fines and interest (all such taxes, assessments, fees, withholdings, governmental charges, penalties, fines and interest being hereinafter called "Taxes"), howsoever imposed, whether levied, imposed on, or otherwise incurred by or asserted by any Federal, state or local government or governmental subdivision in the United States or any foreign country or subdivision thereof, against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease, the CSAs, the CSA Assignments, the Lease Assignment or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured solely by the net income or excess profits of the Lessor or the Vendor, other than Taxes arising out of or imposed with respect to the receipt of indemnification payments pursuant to this Lease. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within ten days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this § 6, any payment shall be made at the time therein provided.

In the event that the Lessor shall become obligated to make any payment to Pullman, NAC, RMC or the Vendor or otherwise pursuant to any corresponding provision of any CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in the name of the Lessor and on its behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit its compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSAs. The Lessor will permit the Lessee to contest such claims under Article 6 of the CSAs in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which

such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee covenants and agrees to pay all amounts due under this § 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.

In the event that the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

The foregoing indemnities are in addition to the indemnities provided for in the Indemnity Agreement.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES AND INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.

In the event that any Unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to § 14 or 17 hereof, or the purchase price of any Unit shall have been refunded by the builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental

entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the next succeeding quarterly rental payment date (a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to § 14 or 17 hereof, the Lessee shall make such payment to the Lessor on a date 30 days after such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor, as the Casualty Value therefor, an amount equal to the Casualty Value as of the end of the term of the Lease in which the Casualty Occurrence shall have taken place. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value plus the Lessee's costs in such proceedings and any balance of such payments shall be the property of the Lessor. In the event such Unit shall be returned by the governmental entity, such Unit shall be returned by the Lessee to the Lessor in the manner provided in § 17 hereof. If the Lessor shall elect to retain such Unit, the Lessee shall be entitled to immediate payment of the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee; and if the Lessor shall elect to sell such Unit, the Lessor shall cause such Unit to be sold, and the Lessee shall be entitled to the proceeds of such sale up to the amount of the Casualty Value paid by the Lessee plus the

Lessee's costs in such proceedings less any condemnation payments received by the Lessee.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3. Lessee Agent for Disposal. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor (i) the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the builder pursuant to the patent indemnity provisions of the applicable CSA an amount equal to any payment made by the builder to the Lessor in respect thereof under such CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease or any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Vendee Purchase Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSAs)

as of such rental payment date.

7.6. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.7. Insurance To Be Maintained. (1) The Lessee will at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained public liability insurance with respect to third party personal injury and property damage and property insurance in respect of the Units at the time subject hereto. The Lessee will carry such insurance in such amounts (in the case of public liability insurance not less than \$25,000,000 for any one occurrence), for such risks, with such deductibles and with such insurance companies, satisfactory to the Lessor and the Vendor and, in any event, consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Vendor, the Lessor and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSAs shall not have been paid in full, and thereafter to the Lessor, and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor, (ii) name the Lessor and the Vendor as additional named insureds as their respective interests may appear, (iii) waive any right to claim any premiums or commissions against the Lessor and the Vendor and (iv) not be a part of an umbrella policy containing any aggregate coverage limitations. In the event such policies shall contain breach of warranty provisions such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not require contributions from other policies held by the Lessor or the Vendor and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor, respectively) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor, respectively). At least five days prior to the first date of delivery of any Unit pursuant to any CSA,

and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Lessor and the Vendor certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest, on the amount of the cost to the Lessor of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in § 19 hereof.

7.8. Insurance Proceeds and Condemnation Payments.

If the Lessor shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor (directly or from the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. REPORTS

On or before March 31 in each year, commencing with the calendar year 1980, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSAs, the total number, description and

identification numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5.1 hereof and by the CSAs have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Unit and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Lessor and the Vendor shall each have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Vendor may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the applicable builder under the provisions of Items 3 and 4 of Annex A of the CSAs; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility

or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Vendor based on any of the foregoing matters.

§ 10. LAWS AND RULES

10.1. Compliance. The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the CSAs.

10.2. Reports by Lessor. The Lessee agrees to prepare and deliver to the Lessor and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor and the Vendor) any and all reports (other than

income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee. No such report shall set forth information which is inconsistent with the ownership of the Units by the Lessor or which implies that this Lease is not a true lease.

§ 11. MAINTENANCE

11.1. Units in Good Operating Order. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the interchange rules of the American Association of Railroads and in the same condition as other similar Equipment owned or leased by the Lessee, which will conform to any conditions set forth in the applicable builder's warranties.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with § 11.2(2) hereof.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Vendee Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the interchange rules of the Association of American Railroads or by the regulations

of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSAs or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Lessor, the Vendor or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence

or wilful misconduct of the Lessor; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSAs or the Lease Assignment or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Lessor. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with

respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 12.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made and any costs incurred by the Lessee in defending such Indemnified Person. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Lessor under any CSA or a guarantee of the residual value of any Unit.

12.2. Indemnification of NAC, RMC and Pullman. The Lessee further agrees to indemnify, protect and hold harmless NAC, Pullman and RMC as third party beneficiaries hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against NAC, Pullman or RMC because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by NAC, Pullman or RMC or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by NAC, Pullman or RMC which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to NAC, Pullman or RMC of any claim known to the Lessee from which liability may be charged against it hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any amount

provided for in § 3, 7 or 16 hereof, and such default shall continue for 10 days;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein, in the Participation Agreement or the Indemnity Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(D) any representation or warranty made by the Lessee herein, in the Participation Agreement or the Indemnity Agreement or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Indemnity Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(F) any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency

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

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of

such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Lessor, in its sole discretion shall specify, (i) a sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rental would have been payable hereunder had this Lease not been terminated over the then present value of the rental which the Lessor reasonably estimates to be obtainable for each Unit during such period, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of this Lease or (ii) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

13.2. Remedies Not Exclusive; Waiver. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

13.3. Failure To Exercise Rights Is Not Waiver. The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

13.4. Notice of Event of Default. The Lessee agrees to furnish the Lessor and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed

therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any reasonable place as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

14.2. Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the

foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Lessor upon prior written consent of the Vendor and the Lessee, except that without such consent the rights of the Lessor hereunder shall be assignable to any Affiliate of the Lessor but without relieving the Lessor of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Lessor hereunder shall be assignable to any other party so long as the Lessor shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and the Lessee and any assignee hereof to indemnify the Vendor, the Lessee and any assignee hereof and to hold the Vendor, the Lessee and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor, the Lessee or any assignee hereof resulting from, arising out of or in connection with such assignment. For the purpose of the § 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the party in question, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and

the CSAs. Without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Lessor and the Vendor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of paragraph (2) of this § 15.2. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

(2) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units by it or any Affiliate upon lines of railroad owned or operated by it or any such Affiliate or upon lines of railroad over which the Lessee or any such Affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such Affiliate is regularly operated pursuant to contract and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. The Lessee may sublease the Units without the consent of the Lessor, but only upon and subject to all the terms and conditions of this Lease and the CSAs, to any financially responsible entity for a period of up to two years; provided, however, that (i) a copy of each such sublease shall be furnished to the Vendee prior to its effective date and (ii) each such sublease shall contain words to the following effect: "The rights of the sublessee under this sublease are subordinate and junior to the rights and remedies of Chemical Bank (the "Lessor") under a Lease of Railroad Equipment (the "Lease") dated as of April 1, 1979, between Peavey Company and the Lessor and to the rights of La Salle National Bank under the Conditional Sale Agreements referred to in the Lease"; provided further, however, that the Lessee shall not sublease or permit the use of any Unit predominantly outside the

United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease to, or permit the use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may sublease the Units for a longer period of time with the consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units.

15.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 16. RENEWAL OPTION

16.1. Renewal Option. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of any Unit pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc. ("TFS"), pursuant to which the Lessor will grant to TFS the option to lease all but not less than all of the Units then subject to this Lease for one five-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if TFS shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee may, by written notice delivered to the Lessor not less than 180 days nor more than 270 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years or such other time acceptable to both the Lessee and Lessor commencing on the scheduled expiration of such original term of this

Lease, at a "Fair Market Rental" payable, in arrears, in quarterly payments on the month and day such rentals were payable for the Units in each year of such extended term. In the event of any such renewal, the Casualty Value payable in respect of a Casualty Occurrence involving any unit shall be as set forth in Schedule B hereto.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for the extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings

wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If any Unit is not so delivered in the condition required to be delivered under this § 17 within 30 days after the expiration of this Lease or any renewal hereof, the Lessee shall pay to the Lessor for each day thereafter until such Unit is so delivered an additional amount equal to the higher of the daily interchange rate for that interchange or 0.02860822% of the Vendee Purchase Price of such Unit per day.

§ 18. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSAs, the CSA Assignments and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit and recording required of the Lessor under the CSAs. The Lessee in addition will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSAs, the CSA Assignments and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSAs, the CSA Assignments and the Lease Assignment shall be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Unit.

cates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 26. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Minnesota; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. IMMUNITIES; NO RECOURSE

No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Lease.

§ 28. AGREEMENTS FOR BENEFIT OF LESSOR'S ASSIGNS

All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns including the Vendor.

§ 29. TERM LESSOR

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor including, so long as any CSA Indebtedness under the CSAs or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor.

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

PEAVEY COMPANY,

by

[Corporate Seal]

Attest:

Assistant Secretary

CHEMICAL BANK,

by

Vice President

[Seal]

Attest:

Authorized Officer

APPENDIX A TO LEASE

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100 Ton Covered Hopper Cars 4750 c.f. cap	LO	1027 2/15/79	Butler, Pennsylvania	125	PVEX 1075-1199	\$42,948.50	\$5,368,562.50	September-October 1979 at Butler, Pennsylvania
100 Ton Covered Hopper Cars 2785 c.f. cap	LO	3000 Model PD	Chicago Ridge, Illinois	12	PVEX 508-519	51,741	620,892	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 3915 c.f. cap	LO	4000 Model PD	Chicago Ridge, Illinois	8	PVEX 500-507	56,041	448,328	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 4750 c.f. cap	LO	1027 2/15/79	Butler, Pennsylvania	75	PVEX 1000-1074	42,948.50	3,221,137.50	June-July 1979 at Butler, Pennsylvania
							<u>\$9,658,920.00</u>	

APPENDIX B TO LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/79	108.3149
1/80	107.8939
4/80	108.3129
7/80	108.5779
10/80	108.7339
1/81	108.8399
4/81	108.8909
7/81	108.9779
10/81	108.5429
1/82	108.2209
4/82	107.8459
7/82	107.4049
10/82	106.9079
1/83	106.3339
4/83	105.7079
7/83	105.0169
10/83	104.2669
1/84	103.4459
4/84	102.5749
7/84	101.6469
10/84	100.6669
1/85	99.6209
4/85	98.5279
7/85	97.3869
10/85	96.2009
1/86	94.9549
4/86	93.6629
7/86	92.3359
10/86	90.9699
1/87	89.5509
4/87	88.0899
7/87	86.6039
10/87	85.0879
1/88	83.5259
4/88	81.9249
7/88	80.3089

* As defined in Paragraph 4.1 of the CSAs.

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/88	78.6689
1/89	76.9899
4/89	75.2789
7/89	73.5469
10/89	71.8029
1/90	70.0219
4/90	68.2029
7/90	66.3859
10/90	64.5529
1/91	62.6889
4/91	60.7859
7/91	58.8939
10/91	56.9869
1/92	55.0559
4/92	53.0859
7/92	51.1339
10/92	49.1739
1/93	47.1929
4/93	45.1739
7/93	43.1679
10/93	41.1519
1/94	39.1159
4/94	37.0479
7/94	34.9929
10/94	32.1509
1/95	32.4639
4/95	32.0159
7/95	31.5889
10/95	31.1789
1/96	30.7989
4/96	30.4059
7/96	29.9489
10/96	29.4419
1/97	28.9259
4/97	28.3939
7/97	27.8589
10/97	27.3159
1/98	26.7629
4/98	26.1919
7/98	25.6189
10/98	26.0369
1/99	24.4439
4/99	23.8329
7/99	23.7119
10/99	23.5909

* As defined in Paragraph 4.1 of the CSAs.

ANNEX D
to
Conditional Sale Agreement

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

[Corporate Seal]

Attest:

Assistant Secretary

CONDITIONAL SALE AGREEMENT
No. 3

Dated as of April 1, 1979

among

CHEMICAL BANK,

Vendee,

RAILWAY MARKETING CORPORATION,
Vendor,

and

PULLMAN INCORPORATED
(Pullman Standard Division),
Builder.

CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT No. 3 dated as of April 1, 1979, among PULLMAN INCORPORATED (Pullman Standard Division), a Delaware corporation (the "Builder"), RAILWAY MARKETING CORPORATION, a Delaware corporation ("RMC" or the "Vendor" as the context may require, all as more particularly set forth in Paragraph 1.3 hereof), and CHEMICAL BANK, a New York banking corporation (the "Vendee").

WHEREAS the Builder agrees to construct, sell and deliver to RMC, and RMC has agreed to purchase from the Builder and conditionally sell to the Vendee, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto, to the extent not excluded herefrom under the provisions hereof (the "Equipment" as more specifically described in Paragraph 4.2 hereof);

WHEREAS the Vendee is entering into a lease with Peavey Company, a Minnesota corporation (the "Lessee"), in substantially the form annexed hereto as Annex C (the "Lease"); and

WHEREAS LA SALLE NATIONAL BANK (the "Assignee") is acting as agent for a certain investor (the "Investor" and, together with any assignees, collectively the "Investors") pursuant to a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Assignee, the Vendee and the party named in Appendix I thereto.

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

ARTICLE 1

ASSIGNMENT; DEFINITIONS

1.1. Contemplated Sources of Purchase Price; Assignment. The parties hereto contemplate that the Vendee will furnish 26.565479% of the Vendee Purchase Price (as defined in Paragraph 4.1 hereof) of the Equipment and that

an amount equal to the balance of such Vendee Purchase Price shall be paid to RMC by the Assignee pursuant to an Agreement and Assignment No. 3 dated as of the date hereof (the "CSA Assignment") among RMC, the Builder and the Assignee. RMC will pay to the Builder the RMC Purchase Price (as defined in Paragraph 4.1 hereof) pursuant to the terms of Paragraph 4.4 hereof.

1.2 Lease Assignment. The Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, certain of the rights, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto (the "Lease Assignment").

1.3. Meaning of "Builder" and "Vendor". The term "Builder", whenever used in this Agreement, means, both before and after any assignment of its rights hereunder, the party hereto which has manufactured the units of Equipment to be constructed and sold hereunder and any successor or successors for the time being to its manufacturing properties and business. The term "Vendor", whenever used in this Agreement, means, before any such assignment, RMC, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights, as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. Any reference herein to this Agreement or any other agreement shall mean said agreement and all amendments and supplements hereto or thereto then in effect.

1.4. Purchase Order. It is understood and agreed that any contractual arrangements between RMC and Pullman, insofar as they relate to the Equipment described in Annex B hereto ("Purchase Order No. 3") shall be superseded by this Agreement, and the obligations of the Vendee to purchase and pay for said Equipment shall be exclusively and completely governed by, and subject to, the conditions provided herein.

ARTICLE 2

CONSTRUCTION AND SALE

The Builder shall construct the Equipment at its plant described in Annex B hereto, and will sell and deliver the Equipment to RMC, RMC will purchase from the Builder and accept delivery of the Equipment and immediately thereafter and without placing the Equipment into service will conditionally sell and deliver the Equipment to the Vendee, and the

Vendee will purchase from RMC and accept delivery of and pay for the Equipment. Each unit of Equipment shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, RMC, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The Builder represents and warrants that (i) the design, quality and component parts of each unit of the Equipment to be delivered by the Builder under this Agreement shall conform, on the date of delivery and acceptance thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, (ii) none of such component parts will be used components, (iii) none of such units will have been used so as to preclude the original use thereof by the Vendee within the meaning of Sections 48(b)(2) and 167(c)(2) of the Internal Revenue Code of 1954 (as amended)(the "Code") and (iv) each unit of the Equipment will be "new section 38 property" within the meaning of the Code when acquired by the Vendee.

ARTICLE 3

INSPECTION AND DELIVERY

3.1. Place of Delivery. The Builder will deliver to RMC and RMC will immediately thereafter deliver to the Vendee the units of the Equipment at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that the Builder shall not have any obligation to deliver any unit of Equipment hereunder to RMC, and RMC shall not have any obligation to deliver any unit of Equipment hereunder to the Vendee, subsequent to the commencement of any proceedings specified in clause (c) or (d) of Paragraph 16.1 hereof; subsequent to the occurrence of any event of default (as described in Paragraph 16.1 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default; or subsequent to any notice to RMC that the Assignee does not have on deposit, pursuant to the Participation Agreement, sufficient funds available to make payment for such units as provided in Section 4 of the Assignment or shall not make, or has not made, payment for any unit assigned to it pursuant to the Assignment, unless

RMC has been assured to its satisfaction that it will receive on the Closing Date (as defined in Paragraph 4.2 hereof) the full Vendee's Purchase Price (as defined in Paragraph 4.1 hereof) thereof. The Builder and RMC agree not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Vendee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid or (b) until it receives notice (i) from the Assignee that the conditions contained in Paragraph 6 of the Participation Agreement have been met and (ii) from the Vendee that the conditions contained in Paragraph 7 of the Participation Agreement have been met.

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

3.3. Exclusion of Equipment. Any Equipment not delivered pursuant to Paragraph 3.1 hereof and any Equipment not delivered and accepted hereunder for any reason on or before December 20, 1979, shall be excluded from this Agreement, and RMC and the Vendee shall be relieved of their respective obligations to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. In the event of any such exclusion of any unit of Equipment herefrom pursuant to the foregoing provisions of this Paragraph 3.3 or pursuant to Paragraph 4.1 hereof, or in the event RMC and the Vendee are relieved of their respective obligations hereunder to accept or pay for any or all units of Equipment in accordance with the terms and conditions hereof for any reason whatsoever, RMC will be obligated to accept all such units completed and delivered by the Builder and to pay the full purchase price therefor when due, all in accordance with the terms of its prior contractual arrangements with the Builder relating to the Equipment ("Purchase Order No. 3"). The Vendee agrees, upon any such exclusion, to take such steps, including the execution of instruments of transfer, as it may be reasonably requested by RMC for the purpose of acknowledging and perfecting the interest of RMC in any unit of Equipment so excluded

from this Agreement, and the Vendee shall have no further obligation or liability in respect of units so excluded.

3.4. Inspection. During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of RMC and the Vendee (who may be employees or agents of the Lessee), and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon or after completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector for RMC and the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications and requirements and standards applicable thereto, such inspector (who may be an employee or agent of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of RMC and the Vendee and are marked in accordance with paragraph 10.1 of Article 10 hereof; provided, however, that the Builder shall not thereby be relieved of any of its warranties set forth herein. By § 2 of the Lease, and by this paragraph 3.4, RMC and the Vendee, respectively, are appointing the Lessee its agent to inspect and accept delivery of the Equipment. Acceptance of any unit of Equipment by the Lessee (or its employees or agents, as aforesaid) pursuant to § 2 of the Lease shall be deemed to be acceptance of such unit by RMC and the Vendee.

3.5. Responsibilities of the Builder and RMC After Delivery. On delivery by the Builder to RMC and by RMC to the Vendee hereunder of a unit of Equipment and acceptance thereof hereunder at the place specified for delivery, the Builder and RMC shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of any of its warranties set forth herein.

ARTICLE 4

PURCHASE PRICE AND PAYMENT

4.1. Meaning of "Vendee Purchase Price"; Exclusion of Units. The base price or prices per unit of the Equipment to be paid by the Vendee to RMC are set forth in Annex B

hereto. Such base price or prices are subject to such increase or decrease as may be agreed to by RMC, the Vendee and the Lessee. The term "Vendee Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the invoice of RMC delivered to the Vendee, any freight or storage charges payable by the Vendee and, if the Vendee Purchase Price is other than the base price or prices set forth in said Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Vendee (such invoice or invoices being hereinafter called "RMC's Invoices"). The base price or prices per unit of the Equipment to be paid by RMC to the Builder are as set forth in Purchase Order No. 3. Such base price or prices are subject to such increase or decrease as may be agreed to by the Builder and RMC. The term "RMC Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the Builder's invoice or invoices delivered to RMC and, if the RMC Purchase Price is other than the base price or prices set forth in Purchase Order No. 3, the Builder's invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of RMC (such invoice or invoices being hereinafter called the "Builder's Invoices"). If on any Closing Date (as defined in Paragraph 4.2 hereof) the aggregate Vendee Purchase Price of Equipment for which settlement has theretofore been and is then being made would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as to which the Vendee and the Lessee may have agreed prior to the delivery of the Equipment being settled for on such Closing Date), the Builder, RMC (and any assignee of RMC) will enter into an agreement effective as of the date of acceptance thereof excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee and the Lessee, as will, after giving effect to such exclusion, reduce such aggregate Vendee Purchase Price to not more than said Maximum Purchase Price (or such higher amount as aforesaid) and the Vendee shall have no further obligation or liability in respect of units so excluded.

4.2. Settlement and Closing Dates. The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by each of RMC and the Vendee as is provided in Item 2 of Annex A hereto. The term "Closing Date" with respect to any Group (as hereinafter defined) shall be such date as is specified by the Lessee by 10 days' written notice thereof with the concurrence of

the Vendee, the Assignee, RMC and the Builder, but in no event shall such Date be later than December 31, 1979. Such notice shall specify the aggregate Vendee Purchase Price of such Group and a copy thereof shall be sent by the Lessee to the Builder, the Assignee and the Vendee. The term "Group", as used herein, shall mean the group of units of Equipment being settled for on any Closing Date. At least five business days prior to the Closing Date with respect to a Group of Equipment, the Builder shall present to RMC the Builder's Invoices, and RMC shall present to the Vendee and the Lessee RMC's Invoices, for the Equipment to be settled for. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, or New York, New York, are authorized or obligated to remain closed.

4.3. Indebtedness of Vendee to Vendor. Subject to the terms of this Agreement, the Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash or immediately available funds to the Vendor at such place as the Vendor may designate, the Vendee Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group an amount equal to 26.565479% of the aggregate Vendee Purchase Price of the units of Equipment in such Group; and

(b) in 60 quarterly installments in arrears, as hereinafter provided, an amount equal to the aggregate Vendee Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (said portion of the aggregate Vendee Purchase Price payable in installments under this subparagraph (b) is hereinafter called the "CSA Indebtedness").

4.4. Indebtedness to Builder. RMC hereby acknowledges itself to be indebted to the Builder in the amount of, and hereby promises to pay in full in cash to the Builder, on the Closing Date with respect to the Group, at such place as the Builder may designate, the RMC Purchase Price. Notwithstanding any provision herein to the contrary, in the event tht RMC refuses, or is unable for any reason (including its bankruptcy or insolvency), to perform its obligations pursuant to this Paragraph 4.4, the Vendee shall have the

right to perform such obligations and to pay the RMC Purchase Price to the Builder, in which event, for all purposes of this Agreement, the Vendee Purchase Price shall be deemed to be the RMC Purchase Price.

4.5. CSA Indebtedness; Payment Dates; Interest.

(1) The installments of the CSA Indebtedness shall be payable quarterly on January 31, April 30, July 31, and October 31 in each year, commencing January 31, 1980, to and including October 31, 1994, each such date being hereinafter called a "Payment Date". The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.9% per annum. Interest on the unpaid balance of the CSA Indebtedness shall be payable in arrears to the extent accrued on October 31, 1979, and on each Payment Date thereafter. The amounts of CSA Indebtedness payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto (subject to the provisions of Article 7 hereof) and the aggregate of such installments of principal shall completely amortize the CSA Indebtedness at maturity. The Vendee will furnish to the Vendor and the Lessee promptly after the last Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

(2) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the next succeeding business day.

4.6. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of 12 30-day months except that interest payable on October 31, 1979, shall be computed on an actual elapsed day, 365-day year, basis.

4.7. Penalty Interest. The Vendee will pay interest, to the extent legally enforceable, at the rate of 10.9% per annum (the "Penalty Rate") upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

4.8. Currency of Payment. All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 or Paragraph 16.1 hereof, the Vendee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

4.9. Liability of Vendee Limited to "Income and Proceeds from Equipment"; Meaning Thereof; Limitation on Execution of Judgments. Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof, except as set forth in this Paragraph 4.9), but not limiting the effect of Article 23 hereof, it is understood and agreed by the Builder and the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to Paragraph 4.3(a) hereof and the proviso to Paragraph 13.3 hereof, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the preceding sentence, the Builder and the Vendor agree that the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee or any assignee of the Vendee. As used herein the term "income and proceeds from the Equipment" shall mean

(i) if one of the events of default specified in Paragraph 16.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of any Casualty Occurrence (as defined in Paragraph 7.2 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 13 or any other provision of the Lease (except any indemnity paid or payable to the Vendee pursuant to § 6 or § 12 of the Lease which is not required to be paid over hereunder by the Vendee to the Vendor and any liability insurance

proceeds payable to the Vendee under § 7 of the Lease) and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition; and

(ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the CSA Indebtedness (including prepayments thereof required in respect of any Casualty Occurrence) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement;

it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were (1) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of any Casualty Occurrence) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease, or (2) are payable to the Vendee pursuant to a separate tax indemnity agreement between the Vendee and the Lessee. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment as provided for herein for the full unpaid Vendee Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5

SECURITY INTEREST IN THE EQUIPMENT

5.1. Vendor To Retain Security Interest; Accessories Are Part of Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease. Such retention of a security interest is solely to secure performance by the Vendee of its obligations under this Agreement (without regard to any provision of this Agreement limiting the liability of the Vendee), and, subject thereto, ownership of the Equipment shall upon delivery and acceptance pass to and remain in the Vendee subject to such performance. Any and all parts installed on and additions and replacements made to any unit of the Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit or (iii) which are required for the operation or use of such unit by the Association of American Railroads and/or the Interstate Commerce Commission, the United States Department of Transportation or any other applicable regulatory body, shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

5.2. Obligations upon Payment of CSA Indebtedness. Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Vendee Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute an instrument releasing its security interest in the Equipment and transferring such interest to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Vendee at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, recording

or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6

TAXES

6.1. General Tax Indemnification. Whether or not any of the transactions contemplated hereby are consummated, the Vendee agrees to pay, and to indemnify and hold the Vendor harmless from, all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Vendee, the Vendor, the Lessee or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Agreement, the CSA Assignment, the Lease, the Lease Assignment, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) Taxes of the United States or any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess

profits of the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or subdivision on its worldwide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any fees or compensation received by the Vendor; and (iii) Taxes which are imposed on or measured solely by the net income of the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Vendee has not agreed to pay or indemnify against pursuant to this Article 6; provided, however, that the Vendee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in Paragraph 6.2 hereof.

6.2. Claims; Contests; Refunds. If claim is made against the Vendor for any Taxes indemnified against under this Article 6, the Vendor shall promptly notify the Vendee. If reasonably requested by the Vendee in writing, the Vendor shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Vendee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Vendee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Vendor; provided that, no proceeding or actions relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Vendor in any such proceeding or action) without the prior written consent of the Vendor, which shall not be unreasonably withheld. If the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Vendee in connection with any such contest or an amount representing interest thereon, the Vendor shall pay the Vendee the amount of such refund or interest net of expenses; provided, however, that no event of default set forth in Paragraph 16.1 hereof and no event

both would constitute such an event of default shall have occurred and be continuing.

6.3. Reports or Returns. In case any report or return is required to be made with respect to any obligation of the Vendee under or arising out of this Article 6, the Vendee shall either make such report or return in such manner as will show the interests of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Vendee.

6.4. Survival. All of the obligations of the Vendee under this Article 6 shall survive and continue, notwithstanding payment in full of all other amounts due under this Agreement.

ARTICLE 7

MAINTENANCE AND CASUALTY OCCURRENCES

7.1. Maintenance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order and repair, ordinary wear and tear excepted.

7.2. Casualty Occurrences. In the event that any unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever or the Vendee Purchase Price of any unit shall have been refunded by the Builder pursuant to the Builder's patent indemnities therefor as set forth in Item 4 of Annex A hereto or any unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of the Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of the Lease (a "Casualty Occurrence"), the Vendee shall, promptly after it shall have received notice from the Lessee or has otherwise been informed that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of an installment on the CSA Indebtedness after such notice from the Lessee has been

received (each such date hereinafter called a "Settlement Date"), the Vendee shall, subject to the limitations contained in Paragraph 4.9 hereof, pay to the Vendor a sum equal to the Casualty Value (as defined in Paragraph 7.3 hereof) of such unit suffering a Casualty Occurrence as of such Settlement Date, together with an amount equal to accrued interest hereon as hereinafter provided. The Vendee shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of principal and interest due on such date in respect of CSA Indebtedness not being prepaid) to prepay, without penalty or premium, ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness, together with all interest accrued on the portion of the CSA Indebtedness being prepaid. The Vendee shall promptly cause to be furnished to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor and the Lessee may request, calculated as provided in Paragraph 4.5 hereof.

7.3. Casualty Value. The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Vendee Purchase Price thereof referred to in Paragraph 4.3(b) hereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit). For the purpose of this paragraph and Paragraph 7.4 hereof, each payment of the Vendee Purchase Price made pursuant to Article 4 hereof shall be deemed to be a payment with respect to each unit of Equipment in like proportion as the original Vendee Purchase Price of such unit bears to the aggregate original Vendee Purchase Price of all the Equipment.

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

in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

ARTICLE 8

INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any unit suffering a Casualty Occurrence, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Vendee; provided, however, that no event of default shall have occurred and be continuing hereunder and the Vendee shall have made payment of the Casualty Value of such unit to the Vendor. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 9

REPORTS AND INSPECTIONS

On or before March 31 in each year, commencing with the year 1980, the Vendee shall cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Vendee's and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10

MARKING OF EQUIPMENT

10.1. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered and marked as provided in § 5 of the Lease. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and

deposited by or on behalf of the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

10.2. No Designations of Ownership. Except as provided in paragraph 10.1 of this Article 10, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

ARTICLE 11

COMPLIANCE WITH LAWS AND RULES

During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will or will cause the Lessee to conform therewith at no expense to the Vendor; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor's counsel, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12

POSSESSION AND USE

12.1. Possession and Use of Equipment by Vendee. The Vendee, so long as an event of default shall not have

occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by RMC to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

12.2. Lease Permitted; Lease Subordinate; No Amendment or Termination. The Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall, except as provided in § 4.2 and § 15.2 of the Lease, be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended in any material respect or terminated (except in accordance with its terms) without the prior written consent of the Vendor, which consent shall not be unreasonably withheld.

ARTICLE 13

PROHIBITION AGAINST LIENS

13.1. Vendee To Discharge Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor's counsel, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

13.2. No Breach for Certain Liens. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

13.3. Article 13 Subject to Article 23 Except in Certain Instances. The obligations of the Vendee under this Article 13 are subject to the limitations contained in Article 23 hereof; provided, however, that the Vendee will pay or discharge any and all taxes, claims, liens, charges or security interests claimed by any party from, through or under the Vendee or its successors or assigns, not arising out of the transactions contemplated hereby or in other documents mentioned herein (but including net income taxes arising out of the receipt of rentals and other payments under the Lease and any other proceeds from the Equipment), which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment or the Vendee's interest in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such tax, claim, lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement.

ARTICLE 14

INDEMNITIES AND WARRANTIES

14.1. Indemnification. The Vendee shall pay, and shall protect, indemnify and hold the Vendor and any assignee hereof, and their respective successors, assigns, agents and servants (hereinafter called "Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including, without limitation, attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising, or alleged to arise out of this Agreement or the Equipment, including, without limitation, those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any unit of Equipment or portion thereof, (ii) any latent and other defects whether or not discoverable by the Vendee or the Vendor, (iii) any claim for patent, trademark or copy-

right infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Vendee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Agreement or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's retention of a security interest under this Agreement or the Lease Assignment; except that the Vendee shall not be liable to the Builder in respect of any of the foregoing matters to the extent liability in respect thereof arises from an act or omission of the Builder or is covered by the Builder's patent indemnification referred to in Paragraph 14.4 hereof. The Vendee shall be obligated under this Article 14, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Vendee under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Vendee may and, upon such Indemnified Person's request, will at the Vendee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Vendee and approved by such Indemnified Person and, in the event of any failure by the Vendee to do so, the Vendee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Vendee is required to make any payment under this Article 14, the Vendee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemni-

fied against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Vendee agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 14 by the Vendee, and provided that no event of default described in Paragraph 16.1 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (other than the Vendee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease shall be paid over to the Vendee to the extent necessary to reimburse the Vendee for indemnification payments previously made in respect of such matter.

14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Vendee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

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

14.4. Warranties of Builder; Patent Indemnities. The agreement of the parties relating to the Builder's warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 15

ASSIGNMENTS

15.1. Assignment by Vendee. Without the consent of the Vendor, the Vendee will not (a) transfer the right to possession of any unit of the Equipment (except to the Lessee pursuant to the Lease) or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement, except that the rights of the Vendee hereunder shall be assignable to any Affiliate of the Vendee but without relieving the Vendee of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Vendee hereunder shall be assignable to any other party so long as the Vendee shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and any assignee hereof, to indemnify the Vendor and any assignee hereof and to hold the Vendor and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor or any assignee hereof resulting from, or arising out of or in connection with such assignment. For the purposes of this Article 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the Vendee, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise.

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

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

15.4. No Setoff Against CSA Indebtedness upon Assignment. The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the assignee to the entire unpaid CSA Indebtedness in respect of the Vendee Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever by the Vendee arising out of any breach of any obligation of RMC or the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by RMC or the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee against and only against RMC or the Builder, as the case may be.

ARTICLE 16

DEFAULTS

16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration of CSA Indebtedness. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

- (a) the Vendee shall fail to pay or cause to be paid in full any sum payable by the Vendee when payment

thereof shall be due hereunder (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default shall continue for 15 days after the date such payment is due and payable;

(b) the Vendee or the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee), the Lease Assignment or any covenant, agreement, term or provision of the Participation Agreement made expressly for the benefit of the Vendor, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance;

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Vendee or the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement or the Lessee under the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) any other proceeding shall be commenced by or against the Vendee or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder or the Lessee under the Lease under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee under this Agreement or the Lessee under the Lease), and, unless such proceedings shall have been

dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement or the Lessee under the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then at any time after the occurrence of such an event of default, and so long as the same shall be continuing, the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, cause the term of the Lease immediately upon such notice to terminate (and the Vendee acknowledges the right of the Vendor to terminate the term of the Lease), provided, however, that such termination shall not be in derogation of or impair the rights of the Vendee or the Vendor (under the assignment thereof), as the case may be, to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of its rights and remedies under § 13 of the Lease (subject to the Vendor's rights to repossess and sell the Equipment as provided in this Agreement), including the rights of the Vendee or the Vendor (under the assignment thereof), as the case may be, to sue for and recover damages provided for in § 13 of the Lease upon the occurrence of an event of default under the Lease, and/or (ii) declare (a "Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Penalty Rate to the extent legally enforceable provided, however, that the Vendor shall not exercise its rights pursuant to this clause (ii) unless it shall exercise its right to terminate the Lease pursuant to the preceding clause (i) if, and to the extent, the Lease is

then terminable by the Vendor. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 23 hereof, wherever situated. The Vendee shall promptly notify the Vendor of any event of which it has knowledge which constituted, constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement. For this purpose, knowledge of the Vendee shall mean actual knowledge by a responsible employee or officer of its Specialized Leasing Department. In the case of an event of default under subparagraph (c) above, the Vendee shall have the option, for a period of 30 days after the commencement of such event of default to prepay, without penalty or premium, all, but not less than all, the outstanding CSA Indebtedness plus interest accrued to the date of such payment; it being understood, however, that unless and until the Vendee has unconditionally agreed with the Vendor by written notice to the Vendor to exercise such option, the Vendor may exercise its rights and remedies upon the occurrence of an event of default under this Agreement.

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

ARTICLE 17

REMEDIES

17.1. Vendor May Take Possession of Equipment. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, at any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for

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

17.2. Assembling of Equipment for Vendor. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged or which may have possession thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the same to be transported to any reasonable place, as directed by the Vendor.

During any storage period, the Lessee has agreed pursuant to § 14.1 of the Lease, at its own cost and expense, to insure, maintain and keep each such unit in good order and repair and to permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence to the agreement between the parties, and the Vendee acknowledges that upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled under the Lease as assignee of the rights of the Vendee thereunder to

a decree against the Lessee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any commercially reasonable manner.

17.3. Vendor May Dispose of or Retain Equipment.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as provided in Paragraph 17.1 hereof) may, at its election, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment and the Vendee shall have no further rights or obligations hereunder; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

17.4. Vendor May Sell Equipment; Vendee's Right of Redemption. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, at any time during the continuance of a Declaration of Default, the

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

17.5. Sale of Equipment by Vendor. Any sale hereunder may be held or conducted at Chicago, Illinois, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor or the Vendee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than 10 business days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. In addition, if such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within 10 business days after notice of the proposed sale

price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as provided in Paragraph 17.7 hereof), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

17.6. Effect of Remedies and Powers and Exercise Thereof. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity not inconsistent herewith, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

17.7. Deficiencies. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall, subject to the limitations of Paragraph 4.9 hereof and Article 23 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Penalty Rate, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of Paragraph 4.9 hereof and Article 23 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

17.8. Expenses. The Vendee will pay all reasonable fees, costs and expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations set forth in Paragraph 4.9 hereof and Article 23 hereof.

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

ARTICLE 18

APPLICABLE STATE LAWS

18.1. Conflict with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement (except such portion as relates to the sale of the Equipment by the Builder to RMC) shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 19

RECORDING

The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or

thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20

REPRESENTATIONS AND WARRANTIES OF BUILDER AND RMC

20.1. Each of RMC and the Builder hereby represents and warrants to RMC and the Vendee, and their respective successors and assigns, that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the other parties hereto, this Agreement is, insofar as the Builder or RMC is concerned, a legal, valid and existing agreement binding upon and enforceable against the Builder or RMC in accordance with its terms.

20.2. The Builder represents and warrants to RMC and the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, RMC will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

20.3. RMC represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Vendee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

20.4. Each of RMC and the Builder represents to each other and to the Vendee that it is not entering into

this Agreement, or into any other transaction contemplated by the Participation Agreement, directly or indirectly in connection with any arrangement or understanding by it in any way involving an employee benefit plan (other than a governmental plan) with respect to which it, or, insofar as is known to it, any party hereto or to the Participation Agreement is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974, as amended.

ARTICLE 21

ARTICLE AND PARAGRAPH HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

21.1. Article and Paragraph Headings for Convenience Only. All article and paragraph headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

ARTICLE 22

NOTICE

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

(a) to the Vendee, at Suite 1822, 55 Water Street, New York, New York 10041, attention of Manager, Specialized Leasing, with a copy to Benjamin D. Fein, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022,

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

(c) to RMC at Suite 1900, 450 Park Avenue, New York, New York 10022, Attention of President,

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

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

ARTICLE 23

IMMUNITIES; SATISFACTION OF UNDERTAKINGS

23.1. No Recourse Against Certain Persons. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

23.2. Satisfaction of Certain Covenants. The obligations of the Vendee under Paragraphs 7.1, 7.2, 17.2, 17.7 and 17.8 hereof, and under Articles 6, 9, 10, 11, 13, 14 and 19 hereof and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects (except as set forth in Paragraph 13.3 thereof), and be of no further force or effect insofar as they involve personal liability for money or performance or otherwise of the Vendee, other than out of "income and proceeds from the Equipment" (as defined in Paragraph 4.9 hereof), by the Lessee's execution and delivery of the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations hereunder or under the Lease; but if the same shall not be performed, they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's

undertakings under the Lease shall be effective unless joined in by the Vendor; provided, however, that the Vendor shall consent to any agreement in writing between the Lessee and the Vendee increasing or decreasing the rentals and casualty values payable pursuant to §§ 3 and 7 of the Lease so long as the amounts payable thereunder are not reduced below those necessary to satisfy the obligations of the Vendee hereunder, such consent to be given by the Vendor within 30 days of delivery of a copy of any such agreement to the Vendor. The Vendor hereby consents to the Indemnity Agreement (as defined in the Participation Agreement).

ARTICLE 24

LAW GOVERNING

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

ARTICLE 25

EXECUTION

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

IN WITNESS WHEREOF, the parties hereto have exe-

cuted or caused this instrument to be executed all as of the date first above written.

CHEMICAL BANK,

[Seal]

by

Attest:

Vice President

Authorized Officer

PULLMAN INCORPORATED
(Pullman Standard Division)

[Corporate Seal]

by

Attest:

Stanley Brown

Vice President-Freight Unit

William Odridge

Assistant Secretary

RAILWAY MARKETING CORPORATION,

[Corporate Seal]

by

Attest:

Assistant Secretary

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 Vice President of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the seal of said bank and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

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 Stanley Brown, to me personally known, who, being by me duly sworn, says that he is Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


 Notary Public

[Notarial Seal]

My Commission expires 8-8-79

SCHEDULE I

Allocation Schedule of Each \$1,000,000 of CSA
 Indebtedness Payable in (i) One Interim Payment of
 Interest Only on October 31, 1979, and (ii) 60
 Quarterly Installments of Principal and Interest
 Commencing January 31, 1980

	<u>Installment No.</u>	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Ending Principal</u>
	31 Oct 79	\$ *	\$ *	\$ -0-	\$1,000,000.00
1	31 Jan 80	35,076.65	24,750.00	10,326.65	989,673.35
2	30 Apr 80	35,076.65	24,494.42	10,582.23	979,091.12
3	31 Jul 80	35,076.65	24,232.51	10,844.14	968,246.98
4	31 Oct 80	35,076.65	23,964.11	11,112.54	957,134.44
5	31 Jan 81	35,076.65	23,689.08	11,387.57	945,746.87
6	30 Apr 81	35,076.65	23,407.23	11,669.42	934,077.45
7	31 Jul 81	35,076.65	23,118.42	11,958.23	922,119.22
8	31 Oct 81	35,076.65	22,822.45	12,254.20	909,865.02
9	31 Jan 82	35,076.65	22,519.16	12,557.49	897,307.53
10	30 Apr 82	35,076.65	22,208.36	12,868.29	884,439.24
11	31 Jul 82	35,076.65	21,889.87	13,186.78	871,252.46
12	31 Oct 82	35,076.65	21,563.50	13,513.15	857,739.31
13	31 Jan 83	35,076.65	21,229.05	13,847.60	843,891.71
14	30 Apr 83	35,076.65	20,886.32	14,190.33	829,701.38
15	31 Jul 83	35,076.65	20,535.11	14,541.54	815,159.84
16	31 Oct 83	35,076.65	20,175.21	14,901.44	800,258.40
17	31 Jan 84	35,076.65	19,806.39	15,270.26	784,988.14
18	30 Apr 84	35,076.65	19,428.46	15,648.19	769,339.95
19	31 Jul 84	35,076.65	19,041.16	16,035.49	753,304.46
20	31 Oct 84	35,076.65	18,644.29	16,432.36	736,872.10
21	31 Jan 85	35,076.65	18,237.58	16,839.07	720,033.03
22	30 Apr 85	35,076.65	17,820.82	17,255.83	702,777.20
23	31 Jul 85	35,076.65	17,393.74	17,682.91	685,094.29
24	31 Oct 85	35,076.65	16,956.08	18,120.57	666,973.72
25	31 Jan 86	35,076.65	16,507.60	18,569.05	648,404.67
26	30 Apr 86	35,076.65	16,048.02	19,028.63	629,376.04
27	31 Jul 86	35,076.65	15,577.06	19,499.59	609,876.45
28	31 Oct 86	35,076.65	15,094.44	19,982.21	589,894.24
29	31 Jan 87	35,076.65	14,599.88	20,476.77	569,417.47
30	30 Apr 87	35,076.65	14,093.08	20,983.57	548,433.90
31	31 Jul 87	35,076.65	13,573.74	21,502.91	526,930.99
32	31 Oct 87	35,076.65	13,041.54	22,035.11	504,895.88

* Interest only on the CSA Indebtedness shall be paid to
 the extent accrued on this date.

<u>Installment</u> <u>No.</u>		<u>Total</u> <u>Payment</u>	<u>Interest</u> <u>Payment</u>	<u>Principal</u> <u>Recovery</u>	<u>Ending</u> <u>Principal</u>
33	31 Jan 88	\$33,633.88	\$12,496.17	\$21,137.70	\$ 483,758.18
34	30 Apr 88	33,633.88	11,973.01	21,660.87	462,097.31
35	31 Jul 88	33,633.88	11,436.91	22,196.97	439,900.34
36	31 Oct 88	33,633.88	10,887.53	22,746.35	417,153.99
37	31 Jan 89	29,837.64	10,324.56	19,513.08	397,640.91
38	30 Apr 89	29,837.64	9,841.61	19,996.03	377,644.88
39	31 Jul 89	29,837.64	9,346.71	20,490.93	357,153.95
40	31 Oct 89	29,837.64	8,839.56	20,998.08	336,155.87
41	31 Jan 90	26,140.96	8,319.86	17,821.10	318,334.77
42	30 Apr 90	26,140.96	7,878.78	18,262.18	300,072.59
43	31 Jul 90	26,140.96	7,426.80	18,714.16	281,358.43
44	31 Oct 90	26,140.96	6,963.62	19,177.34	262,181.09
45	31 Jan 91	22,548.05	6,488.98	16,059.07	246,122.02
46	30 Apr 91	22,548.05	6,091.52	16,456.53	229,665.49
47	31 Jul 91	22,548.05	5,684.22	16,863.83	212,801.66
48	31 Oct 91	22,548.05	5,266.84	17,281.21	195,520.45
49	31 Jan 92	19,071.68	4,839.13	14,232.55	181,287.90
50	30 Apr 92	19,071.68	4,486.88	14,584.80	166,703.10
51	31 Jul 92	19,071.68	4,125.90	14,945.78	151,757.32
52	31 Oct 92	19,071.68	3,755.99	15,315.69	136,441.63
53	31 Jan 93	16,956.92	3,376.93	13,579.99	122,861.64
54	30 Apr 93	16,956.92	3,040.83	13,916.09	108,945.55
55	31 Jul 93	16,956.92	2,696.40	14,260.52	94,685.03
56	31 Oct 93	16,956.92	2,343.45	14,613.47	80,071.56
57	31 Jan 94	21,271.63	1,981.77	19,289.86	60,781.70
58	30 Apr 94	21,271.63	1,504.35	19,767.28	41,014.42
59	31 Jul 94	21,271.63	1,015.11	20,256.52	20,757.89
60	30 Oct 94	21,271.66	513.76	20,757.90	0.00
		\$1,800,295.84	\$800,295.84	\$1,000,000.00	0.00

Annex A
to
Conditional Sale Agreement

- Item 1: Pullman Incorporated (Pullman Standard Division), a Delaware corporation, 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in not more than two Groups of units of Equipment delivered to and accepted by RMC and the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 3: (a) Pullman Incorporated (Pullman Standard Division) ("Pullman") warrants to RMC and the Vendee that the Equipment will be built in accordance with the Specifications and requirements set forth in Article 2 of this Agreement. Pullman further warrants that the Equipment will be free from defects in material (except as to items or specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by Pullman) and workmanship under normal use and service. Pullman's obligation under this Item 3 is limited to making good at its factory any part or parts of any unit of such Equipment which shall, within one year after delivery of such unit of Equipment, be returned to Pullman with transportation charges prepaid and which Pullman's examination shall disclose to its satisfaction to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever occurs first; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance and compliance with Pullman's written instructions and any applicable Federal, state or local laws or regulations.

Pullman MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The rights of RMC and the Vendee under the foregoing warranty shall be their sole and exclusive remedy and Pullman will have no liability for lost profits or for indirect, incidental, consequential or commercial losses. This warranty is expressly in lieu

of all other warranties expressed or implied on the part of Pullman, except for its obligations and liabilities under Articles 2, 3, 4, 14 and 20 of this Agreement and Item 4 below. Pullman neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment.

Pullman further agrees that RMC and the Vendee as well as Pullman may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by Pullman for incorporation in the Equipment manufactured by Pullman for the breach of any warranty by the vendors with respect to such specialties. Pullman, RMC and the Vendee each agrees to notify the others prior to the assertion of any claim by them against any such vendors of specialties. If Pullman determines that it has no interest in any such claim asserted by the Vendee, Pullman agrees to assign to the Vendee, solely for the purpose of making and prosecuting any such claim, all the rights which Pullman has against such vendor for the breach of warranty or other representation respecting the Equipment manufactured by it. The word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

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

- Item 4: Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by Pullman, and articles and materials specified by the Lessee and not manufactured by Pullman, Pullman agrees to indemnify, protect and hold harmless the Lessee, the Vendee and RMC from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Lessee, RMC and the Vendee because of the use in or about

the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee, as a condition to its being a third party beneficiary hereof, will indemnify, protect and hold harmless Pullman from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Pullman because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by Pullman, or article or material specified by the Lessee and not manufactured by Pullman, which infringes or is claimed to infringe on any patent or other right. Pullman agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Lessee every claim, right and cause of action which Pullman has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article, or material specified by the Lessee and used by Pullman in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and Pullman further agrees to execute and deliver to the Lessee all and every such further assurances as may be reasonably requested by them more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Lessee, as a condition to its being a third party beneficiary hereof, will give notice to Pullman of any claim known to the Lessee on the basis of which liability may be charged against Pullman hereunder.

Item 5: The Maximum Purchase Price referred to in Article 4 of the Agreement is \$3,221,137.50.

ANNEX C
to
Conditional Sale Agreements

[CS&M Ref. 4876-009]

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1979

Between

PEAVEY COMPANY,

Lessee,

and

CHEMICAL BANK,

Lessor.

LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1979, between PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), and CHEMICAL BANK, a New York banking corporation (the "Lessor").

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof ("CSA-1") with Pullman Incorporated (Pullman Standard Division) ("Pullman") and North American Car Corporation, a Delaware corporation ("NAC"), wherein Pullman has agreed to manufacture, sell and deliver to NAC, and NAC has agreed to sell and deliver to the Lessor, units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof ("CSA-2") with NAC, wherein NAC has agreed to manufacture, sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof ("CSA-3") with Pullman and Railway Marketing Corporation, a Delaware corporation ("RMC") wherein Pullman has agreed to manufacture, sell and deliver to RMC and RMC has agreed to sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS NAC is assigning certain of its interests in CSA-1 and CSA-2, and RMC is assigning certain of its interests in CSA-3 to LA SALLE NATIONAL BANK acting as agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Vendor, the Lessor and Bankers Life Company;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes individually referred to as a "CSA" and collectively as the "CSAs" and the equipment described in Appendix A hereto is herein sometimes called the "Equipment";

WHEREAS the Lessee will agree to indemnify the Lessor pursuant to an Indemnity Agreement (the "Indemnity Agreement"), substantially in the form attached as Exhibit D to the Participation Agreement, between the Lessee and the Lessor, against certain losses, liabilities or expenses incurred or suffered by the Lessor;

WHEREAS the Lessee desires to lease such number of units of the railroad equipment as are settled for under the CSAs (the "Units") at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor will assign this Lease as security to the Vendor pursuant to an Assignment of Lease and Agreement (the "Lease Assignment") dated as of the date hereof;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent or such other amounts, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or the CSAs or against Pullman, NAC, RMC or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the

manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or the Vendor for any reason whatsoever.

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to each CSA. Each delivery of a Unit to the Lessor under a CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is so delivered to the Lessor. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor under the applicable CSA and on behalf of itself hereunder and execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the applicable CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. RENTALS

3.1. Amount and Date of Payment. (1) The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on October 31, 1979, and 60 consecutive quarterly payments payable, in arrears, on January 31, April 30, July 31 and October 31, in each year, commencing January 31, 1980, to and including October 31, 1994. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the

product of the Vendee Purchase Price (as defined in Paragraph 4.1 of the CSA) for each such Unit subject to this Lease multiplied by 0.02860822% for each day elapsed from and including the Closing Date (as defined in Paragraph 4.2 of the CSA) for such Unit to, but not including, October 31, 1979, and (b) the 60 quarterly rental payments shall each be in an amount equal to 2.6105% of the Vendee Purchase Price of each such Unit.

(2) In the event that there are any losses or liabilities arising out of or resulting from the Investments made pursuant to Paragraph 2 of the Participation Agreement, including, but not limited to, any Investment Deficiency in respect thereof, the rentals thereafter payable by the Lessee in respect of Units settled for concurrently with or after such losses, liabilities or deficiency arose shall be increased by such amount as shall, in the reasonable opinion of the Lessor, cause the Lessor's after-tax economic yields and cash flows, computed on the same assumptions, including tax rates, as were utilized by the Lessor in originally evaluating this transaction ("Net Economic Return") to equal the Net Economic Return that would have been realized by the Lessor if such loss or liability had not occurred.

(3) In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Lessor as rent amounts equal to the amounts required by the Lessor to make the payments provided for in the last sentence of the first paragraph and in the last paragraph of Paragraph 8 of the Participation Agreement on the dates required for such payments in said Paragraph 8 (without regard to the limitation of the obligation of the Lessor set forth therein) and the Lessor agrees to apply such rentals for such purposes.

(4) Anything in the foregoing provisions of this § 3.1 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3.1 on each rental payment date shall in no event be less than the principal and/or interest payment due on each such date pursuant to Article 4 of the CSAs.

3.2. Payments on Nonbusiness Days. If any of the rental payment dates referred to in § 3.1 is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois are authorized or obligated to remain closed.

3.3. Instructions To Pay Assignee. Upon execution and delivery of any lease assignment in writing and until the Lessee shall have been otherwise advised in writing, the Lessee shall pay all amounts so assigned in accordance with the instructions of any assignee.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit under a CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to CSAs. Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSAs. If an event of default should occur under any CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent (as defined in the Participation Agreement) and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 hereof.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in

the case of any Unit not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the CSAs. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSAs shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

5.2. Insignia of Lessee. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates, but the Lessee will not allow the name of any other person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. GENERAL TAX INDEMNIFICATION

Whether or not the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, hold harmless and indemnify on an after-tax basis the Lessor and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, additions to tax, assessments, fees,

withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties, fines and interest (all such taxes, assessments, fees, withholdings, governmental charges, penalties, fines and interest being hereinafter called "Taxes"), howsoever imposed, whether levied, imposed on, or otherwise incurred by or asserted by any Federal, state or local government or governmental subdivision in the United States or any foreign country or subdivision thereof, against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease, the CSAs, the CSA Assignments, the Lease Assignment or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured solely by the net income or excess profits of the Lessor or the Vendor, other than Taxes arising out of or imposed with respect to the receipt of indemnification payments pursuant to this Lease. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within ten days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this § 6, any payment shall be made at the time therein provided.

In the event that the Lessor shall become obligated to make any payment to Pullman, NAC, RMC or the Vendor or otherwise pursuant to any corresponding provision of any CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in the name of the Lessor and on its behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit its compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSAs. The Lessor will permit the Lessee to contest such claims under Article 6 of the CSAs in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which

such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee covenants and agrees to pay all amounts due under this § 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.

In the event that the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

The foregoing indemnities are in addition to the indemnities provided for in the Indemnity Agreement.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES AND INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.

In the event that any Unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to § 14 or 17 hereof, or the purchase price of any Unit shall have been refunded by the builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental

entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the next succeeding quarterly rental payment date (a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to § 14 or 17 hereof, the Lessee shall make such payment to the Lessor on a date 30 days after such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor, as the Casualty Value therefor, an amount equal to the Casualty Value as of the end of the term of the Lease in which the Casualty Occurrence shall have taken place. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value plus the Lessee's costs in such proceedings and any balance of such payments shall be the property of the Lessor. In the event such Unit shall be returned by the governmental entity, such Unit shall be returned by the Lessee to the Lessor in the manner provided in § 17 hereof. If the Lessor shall elect to retain such Unit, the Lessee shall be entitled to immediate payment of the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee; and if the Lessor shall elect to sell such Unit, the Lessor shall cause such Unit to be sold, and the Lessee shall be entitled to the proceeds of such sale up to the amount of the Casualty Value paid by the Lessee plus the

Lessee's costs in such proceedings less any condemnation payments received by the Lessee.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3. Lessee Agent for Disposal. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor (i) the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the builder pursuant to the patent indemnity provisions of the applicable CSA an amount equal to any payment made by the builder to the Lessor in respect thereof under such CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease or any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Vendee Purchase Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSAs)

as of such rental payment date.

7.6. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.7. Insurance To Be Maintained. (1) The Lessee will at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained public liability insurance with respect to third party personal injury and property damage and property insurance in respect of the Units at the time subject hereto. The Lessee will carry such insurance in such amounts (in the case of public liability insurance not less than \$25,000,000 for any one occurrence), for such risks, with such deductibles and with such insurance companies, satisfactory to the Lessor and the Vendor and, in any event, consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Vendor, the Lessor and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSAs shall not have been paid in full, and thereafter to the Lessor, and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor, (ii) name the Lessor and the Vendor as additional named insureds as their respective interests may appear, (iii) waive any right to claim any premiums or commissions against the Lessor and the Vendor and (iv) not be a part of an umbrella policy containing any aggregate coverage limitations. In the event such policies shall contain breach of warranty provisions such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not require contributions from other policies held by the Lessor or the Vendor and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor, respectively) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor, respectively). At least five days prior to the first date of delivery of any Unit pursuant to any CSA,

and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Lessor and the Vendor certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest, on the amount of the cost to the Lessor of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in § 19 hereof.

7.8. Insurance Proceeds and Condemnation Payments. If the Lessor shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor (directly or from the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. REPORTS

On or before March 31 in each year, commencing with the calendar year 1980, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSAs, the total number, description and

identification numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5.1 hereof and by the CSAs have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Unit and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Lessor and the Vendor shall each have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Vendor may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the applicable builder under the provisions of Items 3 and 4 of Annex A of the CSAs; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility

or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Vendor based on any of the foregoing matters.

§ 10. LAWS AND RULES

10.1. Compliance. The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the CSAs.

10.2. Reports by Lessor. The Lessee agrees to prepare and deliver to the Lessor and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor and the Vendor) any and all reports (other than

income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee. No such report shall set forth information which is inconsistent with the ownership of the Units by the Lessor or which implies that this Lease is not a true lease.

§ 11. MAINTENANCE

11.1. Units in Good Operating Order. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the interchange rules of the American Association of Railroads and in the same condition as other similar Equipment owned or leased by the Lessee, which will conform to any conditions set forth in the applicable builder's warranties.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with § 11.2(2) hereof.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Vendee Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the interchange rules of the Association of American Railroads or by the regulations

of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSAs or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Lessor, the Vendor or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence

or wilful misconduct of the Lessor; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSAs or the Lease Assignment or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Lessor. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with

respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 12.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made and any costs incurred by the Lessee in defending such Indemnified Person. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Lessor under any CSA or a guarantee of the residual value of any Unit.

12.2. Indemnification of NAC, RMC and Pullman. The Lessee further agrees to indemnify, protect and hold harmless NAC, Pullman and RMC as third party beneficiaries hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against NAC, Pullman or RMC because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by NAC, Pullman or RMC or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by NAC, Pullman or RMC which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to NAC, Pullman or RMC of any claim known to the Lessee from which liability may be charged against it hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any amount

provided for in § 3, 7 or 16 hereof, and such default shall continue for 10 days;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein, in the Participation Agreement or the Indemnity Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(D) any representation or warranty made by the Lessee herein, in the Participation Agreement or the Indemnity Agreement or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Indemnity Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(F) any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency

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

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of

such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Lessor, in its sole discretion shall specify, (i) a sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rental would have been payable hereunder had this Lease not been terminated over the then present value of the rental which the Lessor reasonably estimates to be obtainable for each Unit during such period, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of this Lease or (ii) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

13.2. Remedies Not Exclusive; Waiver. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

13.3. Failure To Exercise Rights Is Not Waiver. The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

13.4. Notice of Event of Default. The Lessee agrees to furnish the Lessor and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed

therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any reasonable place as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

14.2. Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the

foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Lessor upon prior written consent of the Vendor and the Lessee, except that without such consent the rights of the Lessor hereunder shall be assignable to any Affiliate of the Lessor but without relieving the Lessor of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Lessor hereunder shall be assignable to any other party so long as the Lessor shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and the Lessee and any assignee hereof to indemnify the Vendor, the Lessee and any assignee hereof and to hold the Vendor, the Lessee and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor, the Lessee or any assignee hereof resulting from, arising out of or in connection with such assignment. For the purpose of the § 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the party in question, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and

the CSAs. Without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Lessor and the Vendor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of paragraph (2) of this § 15.2. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

(2) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units by it or any Affiliate upon lines of railroad owned or operated by it or any such Affiliate or upon lines of railroad over which the Lessee or any such Affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such Affiliate is regularly operated pursuant to contract and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. The Lessee may sublease the Units without the consent of the Lessor, but only upon and subject to all the terms and conditions of this Lease and the CSAs, to any financially responsible entity for a period of up to two years; provided, however, that (i) a copy of each such sublease shall be furnished to the Vendee prior to its effective date and (ii) each such sublease shall contain words to the following effect: "The rights of the sublessee under this sublease are subordinate and junior to the rights and remedies of Chemical Bank (the "Lessor") under a Lease of Railroad Equipment (the "Lease") dated as of April 1, 1979, between Peavey Company and the Lessor and to the rights of La Salle National Bank under the Conditional Sale Agreements referred to in the Lease"; provided further, however, that the Lessee shall not sublease or permit the use of any Unit predominantly outside the

United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease to, or permit the use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may sublease the Units for a longer period of time with the consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units.

15.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 16. RENEWAL OPTION

16.1. Renewal Option. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of any Unit pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc. ("TFS"), pursuant to which the Lessor will grant to TFS the option to lease all but not less than all of the Units then subject to this Lease for one five-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if TFS shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee may, by written notice delivered to the Lessor not less than 180 days nor more than 270 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years or such other time acceptable to both the Lessee and Lessor commencing on the scheduled expiration of such original term of this

Lease, at a "Fair Market Rental" payable, in arrears, in quarterly payments on the month and day such rentals were payable for the Units in each year of such extended term. In the event of any such renewal, the Casualty Value payable in respect of a Casualty Occurrence involving any unit shall be as set forth in Schedule B hereto.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for the extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

§ 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 30 days thereafter, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may reasonably designate (such storage tracks to be located in one of the following states: Illinois, Iowa, Minnesota, Montana, Nebraska, North Dakota or South Dakota), or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such unit and transport the same upon disposition of the Units, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect for railroad interchange under the interchange rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in § 11 hereof and have removed therefrom any such device not so considered an accession or, if Lessee

wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If any Unit is not so delivered in the condition required to be delivered under this § 17 within 30 days after the expiration of this Lease or any renewal hereof, the Lessee shall pay to the Lessor for each day thereafter until such Unit is so delivered an additional amount equal to the higher of the daily interchange rate for that interchange or 0.02860822% of the Vendee Purchase Price of such Unit per day.

§ 18. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSAs, the CSA Assignments and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit and recording required of the Lessor under the CSAs. The Lessee in addition will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSAs, the CSA Assignments and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSAs, the CSA Assignments and the Lease Assignment shall be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Unit.

§ 19. INTEREST ON OVERDUE RENTALS

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to interest at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 20. LESSOR'S RIGHT TO PERFORM FOR THE LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder.

§ 21. NOTICES

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at Suite 1822, 55 Water Street, New York, New York 10041, Attention of Manager, Specialized Leasing, with a copy to Benjamin D. Fein, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022;

(b) if to the Lessee, at 730 Second Avenue South, Minneapolis, Minnesota 55402, Attention of Legal Department,

or addressed to either party at such other address as such

party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at 135 South La Salle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department.

§ 22. SEVERABILITY

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

§ 23. EFFECT AND MODIFICATION OF LEASE

Except for the Participation Agreement, the Indemnity Agreement and the Consent, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

§ 24. THIRD PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Vendor, any builder and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

§ 25. EXECUTION

This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed dupli-

cates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 26. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Minnesota; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. IMMUNITIES; NO RECOURSE

No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Lease.

§ 28. AGREEMENTS FOR BENEFIT OF LESSOR'S ASSIGNS

All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns including the Vendor.

§ 29. TERM LESSOR

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor including, so long as any CSA Indebtedness under the CSAs or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor.

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

PEAVEY COMPANY,

by

[Corporate Seal]

Attest:

Assistant Secretary

CHEMICAL BANK,

by

Vice President

[Seal]

Attest:

Authorized Officer

APPENDIX A TO LEASE

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100 Ton Covered Hopper Cars 4750 c.f. cap	LO 1027 2/15/79	Butler, Pennsylvania	125	PVEX 1075-1199	\$42,948.50	\$5,368,562.50	September-October 1979 at Butler, Pennsylvania	
100 Ton Covered Hopper Cars 2785 c.f. cap	LO 3000 Model PD	Chicago Ridge, Illinois	12	PVEX 508-519	51,741	620,892	June 1979 at La Crosse, Wisconsin	
100 Ton Covered Hopper Cars 3915 c.f. cap	LO 4000 Model PD	Chicago Ridge, Illinois	8	PVEX 500-507	56,041	448,328	June 1979 at La Crosse, Wisconsin	
100 Ton Covered Hopper Cars 4750 c.f. cap	LO 1027 2/15/79	Butler, Pennsylvania	75	PVEX 1000-1074	42,948.50	3,221,137.50	June-July 1979 at Butler, Pennsylvania	
						<u>\$9,658,920.00</u>		

APPENDIX B TO LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/79	108.3149
1/80	107.8939
4/80	108.3129
7/80	108.5779
10/80	108.7339
1/81	108.8399
4/81	108.8909
7/81	108.9779
10/81	108.5429
1/82	108.2209
4/82	107.8459
7/82	107.4049
10/82	106.9079
1/83	106.3339
4/83	105.7079
7/83	105.0169
10/83	104.2669
1/84	103.4459
4/84	102.5749
7/84	101.6469
10/84	100.6669
1/85	99.6209
4/85	98.5279
7/85	97.3869
10/85	96.2009
1/86	94.9549
4/86	93.6629
7/86	92.3359
10/86	90.9699
1/87	89.5509
4/87	88.0899
7/87	86.6039
10/87	85.0879
1/88	83.5259
4/88	81.9249
7/88	80.3089

* As defined in Paragraph 4.1 of the CSAs.

Casualty Payment DatesPercentage of
Vendee Purchase Price*

10/88	78.6689
1/89	76.9899
4/89	75.2789
7/89	73.5469
10/89	71.8029
1/90	70.0219
4/90	68.2029
7/90	66.3859
10/90	64.5529
1/91	62.6889
4/91	60.7859
7/91	58.8939
10/91	56.9869
1/92	55.0559
4/92	53.0859
7/92	51.1339
10/92	49.1739
1/93	47.1929
4/93	45.1739
7/93	43.1679
10/93	41.1519
1/94	39.1159
4/94	37.0479
7/94	34.9929
10/94	32.1509
1/95	32.4639
4/95	32.0159
7/95	31.5889
10/95	31.1789
1/96	30.7989
4/96	30.4059
7/96	29.9489
10/96	29.4419
1/97	28.9259
4/97	28.3939
7/97	27.8589
10/97	27.3159
1/98	26.7629
4/98	26.1919
7/98	25.6189
10/98	26.0369
1/99	24.4439
4/99	23.8329
7/99	23.7119
10/99	23.5909

* As defined in Paragraph 4.1 of the CSAs.

ANNEX D
to
Conditional Sale Agreement

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

[Corporate Seal]

Attest:

Assistant Secretary

CONDITIONAL SALE AGREEMENT
No. 3

Dated as of April 1, 1979

among

CHEMICAL BANK,

Vendee,

RAILWAY MARKETING CORPORATION,

Vendor,

and

PULLMAN INCORPORATED
(Pullman Standard Division),
Builder.

CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT No. 3 dated as of April 1, 1979, among PULLMAN INCORPORATED (Pullman Standard Division), a Delaware corporation (the "Builder"), RAILWAY MARKETING CORPORATION, a Delaware corporation ("RMC" or the "Vendor" as the context may require, all as more particularly set forth in Paragraph 1.3 hereof), and CHEMICAL BANK, a New York banking corporation (the "Vendee").

WHEREAS the Builder agrees to construct, sell and deliver to RMC, and RMC has agreed to purchase from the Builder and conditionally sell to the Vendee, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto, to the extent not excluded herefrom under the provisions hereof (the "Equipment" as more specifically described in Paragraph 4.2 hereof);

WHEREAS the Vendee is entering into a lease with Peavey Company, a Minnesota corporation (the "Lessee"), in substantially the form annexed hereto as Annex C (the "Lease"); and

WHEREAS LA SALLE NATIONAL BANK (the "Assignee") is acting as agent for a certain investor (the "Investor" and, together with any assignees, collectively the "Investors") pursuant to a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Assignee, the Vendee and the party named in Appendix I thereto.

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

ARTICLE 1

ASSIGNMENT; DEFINITIONS

1.1. Contemplated Sources of Purchase Price; Assignment. The parties hereto contemplate that the Vendee will furnish 26.565479% of the Vendee Purchase Price (as defined in Paragraph 4.1 hereof) of the Equipment and that

an amount equal to the balance of such Vendee Purchase Price shall be paid to RMC by the Assignee pursuant to an Agreement and Assignment No. 3 dated as of the date hereof (the "CSA Assignment") among RMC, the Builder and the Assignee. RMC will pay to the Builder the RMC Purchase Price (as defined in Paragraph 4.1 hereof) pursuant to the terms of Paragraph 4.4 hereof.

1.2 Lease Assignment. The Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, certain of the rights, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto (the "Lease Assignment").

1.3. Meaning of "Builder" and "Vendor". The term "Builder", whenever used in this Agreement, means, both before and after any assignment of its rights hereunder, the party hereto which has manufactured the units of Equipment to be constructed and sold hereunder and any successor or successors for the time being to its manufacturing properties and business. The term "Vendor", whenever used in this Agreement, means, before any such assignment, RMC, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights, as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. Any reference herein to this Agreement or any other agreement shall mean said agreement and all amendments and supplements hereto or thereto then in effect.

1.4. Purchase Order. It is understood and agreed that any contractual arrangements between RMC and Pullman, insofar as they relate to the Equipment described in Annex B hereto ("Purchase Order No. 3") shall be superseded by this Agreement, and the obligations of the Vendee to purchase and pay for said Equipment shall be exclusively and completely governed by, and subject to, the conditions provided herein.

ARTICLE 2

CONSTRUCTION AND SALE

The Builder shall construct the Equipment at its plant described in Annex B hereto, and will sell and deliver the Equipment to RMC, RMC will purchase from the Builder and accept delivery of the Equipment and immediately thereafter and without placing the Equipment into service will conditionally sell and deliver the Equipment to the Vendee, and the

Vendee will purchase from RMC and accept delivery of and pay for the Equipment. Each unit of Equipment shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, RMC, the Vendee and the Lessee (which specifications and modifications, if any, are hereinafter called the "Specifications"). The Builder represents and warrants that (i) the design, quality and component parts of each unit of the Equipment to be delivered by the Builder under this Agreement shall conform, on the date of delivery and acceptance thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, (ii) none of such component parts will be used components, (iii) none of such units will have been used so as to preclude the original use thereof by the Vendee within the meaning of Sections 48(b)(2) and 167(c)(2) of the Internal Revenue Code of 1954 (as amended)(the "Code") and (iv) each unit of the Equipment will be "new section 38 property" within the meaning of the Code when acquired by the Vendee.

ARTICLE 3

INSPECTION AND DELIVERY

3.1. Place of Delivery. The Builder will deliver to RMC and RMC will immediately thereafter deliver to the Vendee the units of the Equipment at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that the Builder shall not have any obligation to deliver any unit of Equipment hereunder to RMC, and RMC shall not have any obligation to deliver any unit of Equipment hereunder to the Vendee, subsequent to the commencement of any proceedings specified in clause (c) or (d) of Paragraph 16.1 hereof; subsequent to the occurrence of any event of default (as described in Paragraph 16.1 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default; or subsequent to any notice to RMC that the Assignee does not have on deposit, pursuant to the Participation Agreement, sufficient funds available to make payment for such units as provided in Section 4 of the Assignment or shall not make, or has not made, payment for any unit assigned to it pursuant to the Assignment, unless

RMC has been assured to its satisfaction that it will receive on the Closing Date (as defined in Paragraph 4.2 hereof) the full Vendee's Purchase Price (as defined in Paragraph 4.1 hereof) thereof. The Builder and RMC agree not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Vendee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid or (b) until it receives notice (i) from the Assignee that the conditions contained in Paragraph 6 of the Participation Agreement have been met and (ii) from the Vendee that the conditions contained in Paragraph 7 of the Participation Agreement have been met.

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

3.3. Exclusion of Equipment. Any Equipment not delivered pursuant to Paragraph 3.1 hereof and any Equipment not delivered and accepted hereunder for any reason on or before December 20, 1979, shall be excluded from this Agreement, and RMC and the Vendee shall be relieved of their respective obligations to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. In the event of any such exclusion of any unit of Equipment herefrom pursuant to the foregoing provisions of this Paragraph 3.3 or pursuant to Paragraph 4.1 hereof, or in the event RMC and the Vendee are relieved of their respective obligations hereunder to accept or pay for any or all units of Equipment in accordance with the terms and conditions hereof for any reason whatsoever, RMC will be obligated to accept all such units completed and delivered by the Builder and to pay the full purchase price therefor when due, all in accordance with the terms of its prior contractual arrangements with the Builder relating to the Equipment ("Purchase Order No. 3"). The Vendee agrees, upon any such exclusion, to take such steps, including the execution of instruments of transfer, as it may be reasonably requested by RMC for the purpose of acknowledging and perfecting the interest of RMC in any unit of Equipment so excluded

from this Agreement, and the Vendee shall have no further obligation or liability in respect of units so excluded.

3.4. Inspection. During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of RMC and the Vendee (who may be employees or agents of the Lessee), and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon or after completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector for RMC and the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications and requirements and standards applicable thereto, such inspector (who may be an employee or agent of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of RMC and the Vendee and are marked in accordance with paragraph 10.1 of Article 10 hereof; provided, however, that the Builder shall not thereby be relieved of any of its warranties set forth herein. By § 2 of the Lease, and by this paragraph 3.4, RMC and the Vendee, respectively, are appointing the Lessee its agent to inspect and accept delivery of the Equipment. Acceptance of any unit of Equipment by the Lessee (or its employees or agents, as aforesaid) pursuant to § 2 of the Lease shall be deemed to be acceptance of such unit by RMC and the Vendee.

3.5. Responsibilities of the Builder and RMC After Delivery. On delivery by the Builder to RMC and by RMC to the Vendee hereunder of a unit of Equipment and acceptance thereof hereunder at the place specified for delivery, the Builder and RMC shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of any of its warranties set forth herein.

ARTICLE 4

PURCHASE PRICE AND PAYMENT

4.1. Meaning of "Vendee Purchase Price"; Exclusion of Units. The base price or prices per unit of the Equipment to be paid by the Vendee to RMC are set forth in Annex B

hereto. Such base price or prices are subject to such increase or decrease as may be agreed to by RMC, the Vendee and the Lessee. The term "Vendee Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the invoice of RMC delivered to the Vendee, any freight or storage charges payable by the Vendee and, if the Vendee Purchase Price is other than the base price or prices set forth in said Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Vendee (such invoice or invoices being hereinafter called "RMC's Invoices"). The base price or prices per unit of the Equipment to be paid by RMC to the Builder are as set forth in Purchase Order No. 3. Such base price or prices are subject to such increase or decrease as may be agreed to by the Builder and RMC. The term "RMC Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as set forth in the Builder's invoice or invoices delivered to RMC and, if the RMC Purchase Price is other than the base price or prices set forth in Purchase Order No. 3, the Builder's invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of RMC (such invoice or invoices being hereinafter called the "Builder's Invoices"). If on any Closing Date (as defined in Paragraph 4.2 hereof) the aggregate Vendee Purchase Price of Equipment for which settlement has theretofore been and is then being made would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as to which the Vendee and the Lessee may have agreed prior to the delivery of the Equipment being settled for on such Closing Date), the Builder, RMC (and any assignee of RMC) will enter into an agreement effective as of the date of acceptance thereof excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee and the Lessee, as will, after giving effect to such exclusion, reduce such aggregate Vendee Purchase Price to not more than said Maximum Purchase Price (or such higher amount as aforesaid) and the Vendee shall have no further obligation or liability in respect of units so excluded.

4.2. Settlement and Closing Dates. The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by each of RMC and the Vendee as is provided in Item 2 of Annex A hereto. The term "Closing Date" with respect to any Group (as hereinafter defined) shall be such date as is specified by the Lessee by 10 days' written notice thereof with the concurrence of

the Vendee, the Assignee, RMC and the Builder, but in no event shall such Date be later than December 31, 1979. Such notice shall specify the aggregate Vendee Purchase Price of such Group and a copy thereof shall be sent by the Lessee to the Builder, the Assignee and the Vendee. The term "Group", as used herein, shall mean the group of units of Equipment being settled for on any Closing Date. At least five business days prior to the Closing Date with respect to a Group of Equipment, the Builder shall present to RMC the Builder's Invoices, and RMC shall present to the Vendee and the Lessee RMC's Invoices, for the Equipment to be settled for. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois, or New York, New York, are authorized or obligated to remain closed.

4.3. Indebtedness of Vendee to Vendor. Subject to the terms of this Agreement, the Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash or immediately available funds to the Vendor at such place as the Vendor may designate, the Vendee Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group an amount equal to 26.565479% of the aggregate Vendee Purchase Price of the units of Equipment in such Group; and

(b) in 60 quarterly installments in arrears, as hereinafter provided, an amount equal to the aggregate Vendee Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (said portion of the aggregate Vendee Purchase Price payable in installments under this subparagraph (b) is hereinafter called the "CSA Indebtedness").

4.4. Indebtedness to Builder. RMC hereby acknowledges itself to be indebted to the Builder in the amount of, and hereby promises to pay in full in cash to the Builder, on the Closing Date with respect to the Group, at such place as the Builder may designate, the RMC Purchase Price. Notwithstanding any provision herein to the contrary, in the event tht RMC refuses, or is unable for any reason (including its bankruptcy or insolvency), to perform its obligations pursuant to this Paragraph 4.4, the Vendee shall have the

right to perform such obligations and to pay the RMC Purchase Price to the Builder, in which event, for all purposes of this Agreement, the Vendee Purchase Price shall be deemed to be the RMC Purchase Price.

4.5. CSA Indebtedness; Payment Dates; Interest.

(1) The installments of the CSA Indebtedness shall be payable quarterly on January 31, April 30, July 31, and October 31 in each year, commencing January 31, 1980, to and including October 31, 1994, each such date being hereinafter called a "Payment Date". The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 9.9% per annum. Interest on the unpaid balance of the CSA Indebtedness shall be payable in arrears to the extent accrued on October 31, 1979, and on each Payment Date thereafter. The amounts of CSA Indebtedness payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto (subject to the provisions of Article 7 hereof) and the aggregate of such installments of principal shall completely amortize the CSA Indebtedness at maturity. The Vendee will furnish to the Vendor and the Lessee promptly after the last Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

(2) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the next succeeding business day.

4.6. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of 12 30-day months except that interest payable on October 31, 1979, shall be computed on an actual elapsed day, 365-day year, basis.

4.7. Penalty Interest. The Vendee will pay interest, to the extent legally enforceable, at the rate of 10.9% per annum (the "Penalty Rate") upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

4.8. Currency of Payment. All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 or Paragraph 16.1 hereof, the Vendee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

4.9. Liability of Vendee Limited to "Income and Proceeds from Equipment"; Meaning Thereof; Limitation on Execution of Judgments. Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof, except as set forth in this Paragraph 4.9), but not limiting the effect of Article 23 hereof, it is understood and agreed by the Builder and the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to Paragraph 4.3(a) hereof and the proviso to Paragraph 13.3 hereof, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the preceding sentence, the Builder and the Vendor agree that the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee or any assignee of the Vendee. As used herein the term "income and proceeds from the Equipment" shall mean

(i) if one of the events of default specified in Paragraph 16.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of any Casualty Occurrence (as defined in Paragraph 7.2 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 13 or any other provision of the Lease (except any indemnity paid or payable to the Vendee pursuant to § 6 or § 12 of the Lease which is not required to be paid over hereunder by the Vendee to the Vendor and any liability insurance

proceeds payable to the Vendee under § 7 of the Lease) and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition; and

(ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the CSA Indebtedness (including prepayments thereof required in respect of any Casualty Occurrence) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement;

it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were (1) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of any Casualty Occurrence) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease, or (2) are payable to the Vendee pursuant to a separate tax indemnity agreement between the Vendee and the Lessee. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment as provided for herein for the full unpaid Vendee Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5

SECURITY INTEREST IN THE EQUIPMENT

5.1. Vendor To Retain Security Interest; Accessories Are Part of Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement and the Lease. Such retention of a security interest is solely to secure performance by the Vendee of its obligations under this Agreement (without regard to any provision of this Agreement limiting the liability of the Vendee), and, subject thereto, ownership of the Equipment shall upon delivery and acceptance pass to and remain in the Vendee subject to such performance. Any and all parts installed on and additions and replacements made to any unit of the Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit or (iii) which are required for the operation or use of such unit by the Association of American Railroads and/or the Interstate Commerce Commission, the United States Department of Transportation or any other applicable regulatory body, shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

5.2. Obligations upon Payment of CSA Indebtedness. Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Vendee Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute an instrument releasing its security interest in the Equipment and transferring such interest to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Vendee at its address referred to in Article 22 hereof, (b) execute and deliver at the same place, for filing, recording

or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6

TAXES

6.1. General Tax Indemnification. Whether or not any of the transactions contemplated hereby are consummated, the Vendee agrees to pay, and to indemnify and hold the Vendor harmless from, all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Vendee, the Vendor, the Lessee or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the manufacture, purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Agreement, the CSA Assignment, the Lease, the Lease Assignment, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called "Taxes"); excluding, however: (i) Taxes of the United States or any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess

profits of the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or subdivision on its worldwide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any fees or compensation received by the Vendor; and (iii) Taxes which are imposed on or measured solely by the net income of the Vendor if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Vendee has not agreed to pay or indemnify against pursuant to this Article 6; provided, however, that the Vendee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in Paragraph 6.2 hereof.

6.2. Claims; Contests; Refunds. If claim is made against the Vendor for any Taxes indemnified against under this Article 6, the Vendor shall promptly notify the Vendee. If reasonably requested by the Vendee in writing, the Vendor shall, upon receipt of any indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Vendee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Vendee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Vendor; provided that, no proceeding or actions relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Vendor in any such proceeding or action) without the prior written consent of the Vendor, which shall not be unreasonably withheld. If the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Vendee in connection with any such contest or an amount representing interest thereon, the Vendor shall pay the Vendee the amount of such refund or interest net of expenses; provided, however, that no event of default set forth in Paragraph 16.1 hereof and no event

both would constitute such an event of default shall have occurred and be continuing.

6.3. Reports or Returns. In case any report or return is required to be made with respect to any obligation of the Vendee under or arising out of this Article 6, the Vendee shall either make such report or return in such manner as will show the interests of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Vendee.

6.4. Survival. All of the obligations of the Vendee under this Article 6 shall survive and continue, notwithstanding payment in full of all other amounts due under this Agreement.

ARTICLE 7

MAINTENANCE AND CASUALTY OCCURRENCES

7.1. Maintenance. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order and repair, ordinary wear and tear excepted.

7.2. Casualty Occurrences. In the event that any unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever or the Vendee Purchase Price of any unit shall have been refunded by the Builder pursuant to the Builder's patent indemnities therefor as set forth in Item 4 of Annex A hereto or any unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of the Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of the Lease (a "Casualty Occurrence"), the Vendee shall, promptly after it shall have received notice from the Lessee or has otherwise been informed that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of an installment on the CSA Indebtedness after such notice from the Lessee has been

received (each such date hereinafter called a "Settlement Date"), the Vendee shall, subject to the limitations contained in Paragraph 4.9 hereof, pay to the Vendor a sum equal to the Casualty Value (as defined in Paragraph 7.3 hereof) of such unit suffering a Casualty Occurrence as of such Settlement Date, together with an amount equal to accrued interest hereon as hereinafter provided. The Vendee shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of principal and interest due on such date in respect of CSA Indebtedness not being prepaid) to prepay, without penalty or premium, ratably in accordance with the unpaid balance of each installment, the CSA Indebtedness, together with all interest accrued on the portion of the CSA Indebtedness being prepaid. The Vendee shall promptly cause to be furnished to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor and the Lessee may request, calculated as provided in Paragraph 4.5 hereof.

7.3. Casualty Value. The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Vendee Purchase Price thereof referred to in Paragraph 4.3(b) hereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit). For the purpose of this paragraph and Paragraph 7.4 hereof, each payment of the Vendee Purchase Price made pursuant to Article 4 hereof shall be deemed to be a payment with respect to each unit of Equipment in like proportion as the original Vendee Purchase Price of such unit bears to the aggregate original Vendee Purchase Price of all the Equipment.

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

in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

ARTICLE 8

INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any unit suffering a Casualty Occurrence, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Vendee; provided, however, that no event of default shall have occurred and be continuing hereunder and the Vendee shall have made payment of the Casualty Value of such unit to the Vendor. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 9

REPORTS AND INSPECTIONS

On or before March 31 in each year, commencing with the year 1980, the Vendee shall cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Vendee's and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10

MARKING OF EQUIPMENT

10.1. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered and marked as provided in § 5 of the Lease. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and

deposited by or on behalf of the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

10.2. No Designations of Ownership. Except as provided in paragraph 10.1 of this Article 10, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

ARTICLE 11

COMPLIANCE WITH LAWS AND RULES

During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any unit of the Equipment, the Vendee will or will cause the Lessee to conform therewith at no expense to the Vendor; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor's counsel, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12

POSSESSION AND USE

12.1. Possession and Use of Equipment by Vendee. The Vendee, so long as an event of default shall not have

occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by RMC to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

12.2. Lease Permitted; Lease Subordinate; No Amendment or Termination. The Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall, except as provided in § 4.2 and § 15.2 of the Lease, be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended in any material respect or terminated (except in accordance with its terms) without the prior written consent of the Vendor, which consent shall not be unreasonably withheld.

ARTICLE 13

PROHIBITION AGAINST LIENS

13.1. Vendee To Discharge Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor's counsel, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

13.2. No Breach for Certain Liens. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

13.3. Article 13 Subject to Article 23 Except in Certain Instances. The obligations of the Vendee under this Article 13 are subject to the limitations contained in Article 23 hereof; provided, however, that the Vendee will pay or discharge any and all taxes, claims, liens, charges or security interests claimed by any party from, through or under the Vendee or its successors or assigns, not arising out of the transactions contemplated hereby or in other documents mentioned herein (but including net income taxes arising out of the receipt of rentals and other payments under the Lease and any other proceeds from the Equipment), which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment or the Vendee's interest in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such tax, claim, lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement.

ARTICLE 14

INDEMNITIES AND WARRANTIES

14.1. Indemnification. The Vendee shall pay, and shall protect, indemnify and hold the Vendor and any assignee hereof, and their respective successors, assigns, agents and servants (hereinafter called "Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including, without limitation, attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising, or alleged to arise out of this Agreement or the Equipment, including, without limitation, those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any unit of Equipment or portion thereof, (ii) any latent and other defects whether or not discoverable by the Vendee or the Vendor, (iii) any claim for patent, trademark or copy-

right infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Vendee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Agreement or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's retention of a security interest under this Agreement or the Lease Assignment; except that the Vendee shall not be liable to the Builder in respect of any of the foregoing matters to the extent liability in respect thereof arises from an act or omission of the Builder or is covered by the Builder's patent indemnification referred to in Paragraph 14.4 hereof. The Vendee shall be obligated under this Article 14, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Vendee under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Vendee may and, upon such Indemnified Person's request, will at the Vendee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Vendee and approved by such Indemnified Person and, in the event of any failure by the Vendee to do so, the Vendee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Vendee is required to make any payment under this Article 14, the Vendee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemni-

fied against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Vendee agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 14 by the Vendee, and provided that no event of default described in Paragraph 16.1 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (other than the Vendee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease shall be paid over to the Vendee to the extent necessary to reimburse the Vendee for indemnification payments previously made in respect of such matter.

14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Vendee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

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

14.4. Warranties of Builder; Patent Indemnities. The agreement of the parties relating to the Builder's warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 15

ASSIGNMENTS

15.1. Assignment by Vendee. Without the consent of the Vendor, the Vendee will not (a) transfer the right to possession of any unit of the Equipment (except to the Lessee pursuant to the Lease) or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement, except that the rights of the Vendee hereunder shall be assignable to any Affiliate of the Vendee but without relieving the Vendee of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Vendee hereunder shall be assignable to any other party so long as the Vendee shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and any assignee hereof, to indemnify the Vendor and any assignee hereof and to hold the Vendor and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor or any assignee hereof resulting from, or arising out of or in connection with such assignment. For the purposes of this Article 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the Vendee, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise.

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

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

15.4. No Setoff Against CSA Indebtedness upon Assignment. The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the assignee to the entire unpaid CSA Indebtedness in respect of the Vendee Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever by the Vendee arising out of any breach of any obligation of RMC or the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee by RMC or the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee against and only against RMC or the Builder, as the case may be.

ARTICLE 16

DEFAULTS

16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration of CSA Indebtedness. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

- (a) the Vendee shall fail to pay or cause to be paid in full any sum payable by the Vendee when payment

thereof shall be due hereunder (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default shall continue for 15 days after the date such payment is due and payable;

(b) the Vendee or the Lessee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Vendee), the Lease Assignment or any covenant, agreement, term or provision of the Participation Agreement made expressly for the benefit of the Vendor, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance;

(c) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Vendee or the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement or the Lessee under the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) any other proceeding shall be commenced by or against the Vendee or the Lessee for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder or the Lessee under the Lease under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Vendee under this Agreement or the Lessee under the Lease), and, unless such proceedings shall have been

dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement or the Lessee under the Lease shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then at any time after the occurrence of such an event of default, and so long as the same shall be continuing, the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, cause the term of the Lease immediately upon such notice to terminate (and the Vendee acknowledges the right of the Vendor to terminate the term of the Lease), provided, however, that such termination shall not be in derogation of or impair the rights of the Vendee or the Vendor (under the assignment thereof), as the case may be, to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of its rights and remedies under § 13 of the Lease (subject to the Vendor's rights to repossess and sell the Equipment as provided in this Agreement), including the rights of the Vendee or the Vendor (under the assignment thereof), as the case may be, to sue for and recover damages provided for in § 13 of the Lease upon the occurrence of an event of default under the Lease, and/or (ii) declare (a "Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Penalty Rate to the extent legally enforceable provided, however, that the Vendor shall not exercise its rights pursuant to this clause (ii) unless it shall exercise its right to terminate the Lease pursuant to the preceding clause (i) if, and to the extent, the Lease is

then terminable by the Vendor. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 23 hereof, wherever situated. The Vendee shall promptly notify the Vendor of any event of which it has knowledge which constituted, constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement. For this purpose, knowledge of the Vendee shall mean actual knowledge by a responsible employee or officer of its Specialized Leasing Department. In the case of an event of default under subparagraph (c) above, the Vendee shall have the option, for a period of 30 days after the commencement of such event of default to prepay, without penalty or premium, all, but not less than all, the outstanding CSA Indebtedness plus interest accrued to the date of such payment; it being understood, however, that unless and until the Vendee has unconditionally agreed with the Vendor by written notice to the Vendor to exercise such option, the Vendor may exercise its rights and remedies upon the occurrence of an event of default under this Agreement.

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

ARTICLE 17

REMEDIES

17.1. Vendor May Take Possession of Equipment. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, at any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for

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

17.2. Assembling of Equipment for Vendor. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged or which may have possession thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the same to be transported to any reasonable place, as directed by the Vendor.

During any storage period, the Lessee has agreed pursuant to § 14.1 of the Lease, at its own cost and expense, to insure, maintain and keep each such unit in good order and repair and to permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence to the agreement between the parties, and the Vendee acknowledges that upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled under the Lease as assignee of the rights of the Vendee thereunder to

a decree against the Lessee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any commercially reasonable manner.

17.3. Vendor May Dispose of or Retain Equipment.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as provided in Paragraph 17.1 hereof) may, at its election, retain the Equipment in satisfaction of the entire CSA Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Vendor as compensation for the use of the Equipment and the Vendee shall have no further rights or obligations hereunder; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

17.4. Vendor May Sell Equipment; Vendee's Right of Redemption. Subject to the Lessee's rights of possession, use and assignment under §§ 4 and 15 of the Lease, at any time during the continuance of a Declaration of Default, the

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

17.5. Sale of Equipment by Vendor. Any sale hereunder may be held or conducted at Chicago, Illinois, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor or the Vendee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than 10 business days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. In addition, if such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within 10 business days after notice of the proposed sale

price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as provided in Paragraph 17.7 hereof), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

17.6. Effect of Remedies and Powers and Exercise Thereof. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity not inconsistent herewith, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

17.7. Deficiencies. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall, subject to the limitations of Paragraph 4.9 hereof and Article 23 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Penalty Rate, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of Paragraph 4.9 hereof and Article 23 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

17.8. Expenses. The Vendee will pay all reasonable fees, costs and expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations set forth in Paragraph 4.9 hereof and Article 23 hereof.

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

ARTICLE 18

APPLICABLE STATE LAWS

18.1. Conflict with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement (except such portion as relates to the sale of the Equipment by the Builder to RMC) shall be deemed to be a conditional sale and enforced as such.

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

ARTICLE 19

RECORDING

The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or

thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20

REPRESENTATIONS AND WARRANTIES OF BUILDER AND RMC

20.1. Each of RMC and the Builder hereby represents and warrants to RMC and the Vendee, and their respective successors and assigns, that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the other parties hereto, this Agreement is, insofar as the Builder or RMC is concerned, a legal, valid and existing agreement binding upon and enforceable against the Builder or RMC in accordance with its terms.

20.2. The Builder represents and warrants to RMC and the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, RMC will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

20.3. RMC represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Vendee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

20.4. Each of RMC and the Builder represents to each other and to the Vendee that it is not entering into

this Agreement, or into any other transaction contemplated by the Participation Agreement, directly or indirectly in connection with any arrangement or understanding by it in any way involving an employee benefit plan (other than a governmental plan) with respect to which it, or, insofar as is known to it, any party hereto or to the Participation Agreement is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974, as amended.

ARTICLE 21

ARTICLE AND PARAGRAPH HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

21.1. Article and Paragraph Headings for Convenience Only. All article and paragraph headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

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

ARTICLE 22

NOTICE

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

(a) to the Vendee, at Suite 1822, 55 Water Street, New York, New York 10041, attention of Manager, Specialized Leasing, with a copy to Benjamin D. Fein, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022,

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

(c) to RMC at Suite 1900, 450 Park Avenue, New York, New York 10022, Attention of President,

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

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

ARTICLE 23

IMMUNITIES; SATISFACTION OF UNDERTAKINGS

23.1. No Recourse Against Certain Persons. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

23.2. Satisfaction of Certain Covenants. The obligations of the Vendee under Paragraphs 7.1, 7.2, 17.2, 17.7 and 17.8 hereof, and under Articles 6, 9, 10, 11, 13, 14 and 19 hereof and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects (except as set forth in Paragraph 13.3 thereof), and be of no further force or effect insofar as they involve personal liability for money or performance or otherwise of the Vendee, other than out of "income and proceeds from the Equipment" (as defined in Paragraph 4.9 hereof), by the Lessee's execution and delivery of the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations hereunder or under the Lease; but if the same shall not be performed, they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's

undertakings under the Lease shall be effective unless joined in by the Vendor; provided, however, that the Vendor shall consent to any agreement in writing between the Lessee and the Vendee increasing or decreasing the rentals and casualty values payable pursuant to §§ 3 and 7 of the Lease so long as the amounts payable thereunder are not reduced below those necessary to satisfy the obligations of the Vendee hereunder, such consent to be given by the Vendor within 30 days of delivery of a copy of any such agreement to the Vendor. The Vendor hereby consents to the Indemnity Agreement (as defined in the Participation Agreement).

ARTICLE 24

LAW GOVERNING

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

ARTICLE 25

EXECUTION

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

IN WITNESS WHEREOF, the parties hereto have exe-

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 Vice President of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the seal of said bank and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

Notary Public

[Notarial Seal]

My Commission expires

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

On this day of 1979, before me personally appeared Stanley Brown, to me personally known, who, being by me duly sworn, says that he is Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

SCHEDULE I

Allocation Schedule of Each \$1,000,000 of CSA
 Indebtedness Payable in (i) One Interim Payment of
 Interest Only on October 31, 1979, and (ii) 60
 Quarterly Installments of Principal and Interest
 Commencing January 31, 1980

Installment No.	Total Payment	Interest Payment	Principal Recovery	Ending Principal
	\$ *	\$ *	\$ -0-	\$1,000,000.00
1	35,076.65	24,750.00	10,326.65	989,673.35
2	35,076.65	24,494.42	10,582.23	979,091.12
3	35,076.65	24,232.51	10,844.14	968,246.98
4	35,076.65	23,964.11	11,112.54	957,134.44
5	35,076.65	23,689.08	11,387.57	945,746.87
6	35,076.65	23,407.23	11,669.42	934,077.45
7	35,076.65	23,118.42	11,958.23	922,119.22
8	35,076.65	22,822.45	12,254.20	909,865.02
9	35,076.65	22,519.16	12,557.49	897,307.53
10	35,076.65	22,208.36	12,868.29	884,439.24
11	35,076.65	21,889.87	13,186.78	871,252.46
12	35,076.65	21,563.50	13,513.15	857,739.31
13	35,076.65	21,229.05	13,847.60	843,891.71
14	35,076.65	20,886.32	14,190.33	829,701.38
15	35,076.65	20,535.11	14,541.54	815,159.84
16	35,076.65	20,175.21	14,901.44	800,258.40
17	35,076.65	19,806.39	15,270.26	784,988.14
18	35,076.65	19,428.46	15,648.19	769,339.95
19	35,076.65	19,041.16	16,035.49	753,304.46
20	35,076.65	18,644.29	16,432.36	736,872.10
21	35,076.65	18,237.58	16,839.07	720,033.03
22	35,076.65	17,820.82	17,255.83	702,777.20
23	35,076.65	17,393.74	17,682.91	685,094.29
24	35,076.65	16,956.08	18,120.57	666,973.72
25	35,076.65	16,507.60	18,569.05	648,404.67
26	35,076.65	16,048.02	19,028.63	629,376.04
27	35,076.65	15,577.06	19,499.59	609,876.45
28	35,076.65	15,094.44	19,982.21	589,894.24
29	35,076.65	14,599.88	20,476.77	569,417.47
30	35,076.65	14,093.08	20,983.57	548,433.90
31	35,076.65	13,573.74	21,502.91	526,930.99
32	35,076.65	13,041.54	22,035.11	504,895.88

* Interest only on the CSA Indebtedness shall be paid to
 the extent accrued on this date.

<u>Installment No.</u>	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Recovery</u>	<u>Ending Principal</u>
33 31 Jan 88	\$33,633.88	\$12,496.17	\$21,137.70	\$ 483,758.18
34 30 Apr 88	33,633.88	11,973.01	21,660.87	462,097.31
35 31 Jul 88	33,633.88	11,436.91	22,196.97	439,900.34
36 31 Oct 88	33,633.88	10,887.53	22,746.35	417,153.99
37 31 Jan 89	29,837.64	10,324.56	19,513.08	397,640.91
38 30 Apr 89	29,837.64	9,841.61	19,996.03	377,644.88
39 31 Jul 89	29,837.64	9,346.71	20,490.93	357,153.95
40 31 Oct 89	29,837.64	8,839.56	20,998.08	336,155.87
41 31 Jan 90	26,140.96	8,319.86	17,821.10	318,334.77
42 30 Apr 90	26,140.96	7,878.78	18,262.18	300,072.59
43 31 Jul 90	26,140.96	7,426.80	18,714.16	281,358.43
44 31 Oct 90	26,140.96	6,963.62	19,177.34	262,181.09
45 31 Jan 91	22,548.05	6,488.98	16,059.07	246,122.02
46 30 Apr 91	22,548.05	6,091.52	16,456.53	229,665.49
47 31 Jul 91	22,548.05	5,684.22	16,863.83	212,801.66
48 31 Oct 91	22,548.05	5,266.84	17,281.21	195,520.45
49 31 Jan 92	19,071.68	4,839.13	14,232.55	181,287.90
50 30 Apr 92	19,071.68	4,486.88	14,584.80	166,703.10
51 31 Jul 92	19,071.68	4,125.90	14,945.78	151,757.32
52 31 Oct 92	19,071.68	3,755.99	15,315.69	136,441.63
53 31 Jan 93	16,956.92	3,376.93	13,579.99	122,861.64
54 30 Apr 93	16,956.92	3,040.83	13,916.09	108,945.55
55 31 Jul 93	16,956.92	2,696.40	14,260.52	94,685.03
56 31 Oct 93	16,956.92	2,343.45	14,613.47	80,071.56
57 31 Jan 94	21,271.63	1,981.77	19,289.86	60,781.70
58 30 Apr 94	21,271.63	1,504.35	19,767.28	41,014.42
59 31 Jul 94	21,271.63	1,015.11	20,256.52	20,757.89
60 30 Oct 94	<u>21,271.66</u>	<u>513.76</u>	<u>20,757.90</u>	<u>0.00</u>
	\$1,800,295.84	\$800,295.84	\$1,000,000.00	0.00

Annex A
to
Conditional Sale Agreement

- Item 1: Pullman Incorporated (Pullman Standard Division), a Delaware corporation, 200 South Michigan Avenue, Chicago, Illinois 60604.
- Item 2: The Equipment shall be settled for in not more than two Groups of units of Equipment delivered to and accepted by RMC and the Vendee unless a greater number shall be agreed to by the parties hereto.
- Item 3: (a) Pullman Incorporated (Pullman Standard Division) ("Pullman") warrants to RMC and the Vendee that the Equipment will be built in accordance with the Specifications and requirements set forth in Article 2 of this Agreement. Pullman further warrants that the Equipment will be free from defects in material (except as to items or specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by Pullman) and workmanship under normal use and service. Pullman's obligation under this Item 3 is limited to making good at its factory any part or parts of any unit of such Equipment which shall, within one year after delivery of such unit of Equipment, be returned to Pullman with transportation charges prepaid and which Pullman's examination shall disclose to its satisfaction to have been defective; provided, however, that this warranty will be subject to the following limitations: (i) warranty coverage on running gear and contact points to unit structure is restricted to one year or 25,000 miles, whichever occurs first; and (ii) normal use and service is deemed to require inspection, adjustment, maintenance and compliance with Pullman's written instructions and any applicable Federal, state or local laws or regulations.

Pullman MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. The rights of RMC and the Vendee under the foregoing warranty shall be their sole and exclusive remedy and Pullman will have no liability for lost profits or for indirect, incidental, consequential or commercial losses. This warranty is expressly in lieu

of all other warranties expressed or implied on the part of Pullman, except for its obligations and liabilities under Articles 2, 3, 4, 14 and 20 of this Agreement and Item 4 below. Pullman neither assumes nor authorizes any person to assume for it any other warranty liability in connection with the construction and delivery of the Equipment.

Pullman further agrees that RMC and the Vendee as well as Pullman may to the extent permitted by law take and prosecute claims against vendors of specialties purchased by Pullman for incorporation in the Equipment manufactured by Pullman for the breach of any warranty by the vendors with respect to such specialties. Pullman, RMC and the Vendee each agrees to notify the others prior to the assertion of any claim by them against any such vendors of specialties. If Pullman determines that it has no interest in any such claim asserted by the Vendee, Pullman agrees to assign to the Vendee, solely for the purpose of making and prosecuting any such claim, all the rights which Pullman has against such vendor for the breach of warranty or other representation respecting the Equipment manufactured by it. The word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

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

Item 4: Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by Pullman, and articles and materials specified by the Lessee and not manufactured by Pullman, Pullman agrees to indemnify, protect and hold harmless the Lessee, the Vendee and RMC from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Lessee, RMC and the Vendee because of the use in or about

the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee, as a condition to its being a third party beneficiary hereof, will indemnify, protect and hold harmless Pullman from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against Pullman because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by Pullman, or article or material specified by the Lessee and not manufactured by Pullman, which infringes or is claimed to infringe on any patent or other right. Pullman agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the Lessee every claim, right and cause of action which Pullman has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article, or material specified by the Lessee and used by Pullman in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and Pullman further agrees to execute and deliver to the Lessee all and every such further assurances as may be reasonably requested by them more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Lessee, as a condition to its being a third party beneficiary hereof, will give notice to Pullman of any claim known to the Lessee on the basis of which liability may be charged against Pullman hereunder.

Item 5: The Maximum Purchase Price referred to in Article 4 of the Agreement is \$3,221,137.50.

Annex B
to
Conditional Sale Agreement

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100 Ton Covered Hopper Cars 4750 c.f. cap	L0	1027 2/15/79	Butler, Pa.	75	PVGX 1000- 1074	\$42,948.50	\$3,221,137.50	June-July 1979 at Butler, Pa.

ANNEX C
to
Conditional Sale Agreements

[CS&M Ref. 4876-009]

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1979

Between

PEAVEY COMPANY,

Lessee,

and

CHEMICAL BANK,

Lessor.

LEASE OF RAILROAD EQUIPMENT

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

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LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1979, between PEAVEY COMPANY, a Minnesota corporation (the "Lessee"), and CHEMICAL BANK, a New York banking corporation (the "Lessor").

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 1 dated as of the date hereof ("CSA-1") with Pullman Incorporated (Pullman Standard Division) ("Pullman") and North American Car Corporation, a Delaware corporation ("NAC"), wherein Pullman has agreed to manufacture, sell and deliver to NAC, and NAC has agreed to sell and deliver to the Lessor, units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 2 dated as of the date hereof ("CSA-2") with NAC, wherein NAC has agreed to manufacture, sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS the Lessor is entering into a Conditional Sale Agreement No. 3 dated as of the date hereof ("CSA-3") with Pullman and Railway Marketing Corporation, a Delaware corporation ("RMC") wherein Pullman has agreed to manufacture, sell and deliver to RMC and RMC has agreed to sell and deliver to the Lessor units of railroad equipment among those described in Appendix A hereto;

WHEREAS NAC is assigning certain of its interests in CSA-1 and CSA-2, and RMC is assigning certain of its interests in CSA-3 to LA SALLE NATIONAL BANK acting as agent (the "Vendor") under a Participation Agreement dated as of the date hereof (the "Participation Agreement") among the Lessee, the Vendor, the Lessor and Bankers Life Company;

WHEREAS CSA-1, CSA-2 and CSA-3 are herein sometimes individually referred to as a "CSA" and collectively as the "CSAs" and the equipment described in Appendix A hereto is herein sometimes called the "Equipment";

WHEREAS the Lessee will agree to indemnify the Lessor pursuant to an Indemnity Agreement (the "Indemnity Agreement"), substantially in the form attached as Exhibit D to the Participation Agreement, between the Lessee and the Lessor, against certain losses, liabilities or expenses incurred or suffered by the Lessor;

WHEREAS the Lessee desires to lease such number of units of the railroad equipment as are settled for under the CSAs (the "Units") at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor will assign this Lease as security to the Vendor pursuant to an Assignment of Lease and Agreement (the "Lease Assignment") dated as of the date hereof;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent or such other amounts, reduction thereof or setoff against rent or such other amounts, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or the CSAs or against Pullman, NAC, RMC or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the

manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or the Vendor for any reason whatsoever.

§ 2. DELIVERY AND ACCEPTANCE OF UNITS

The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to each CSA. Each delivery of a Unit to the Lessor under a CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points within the United States of America at which such Unit is so delivered to the Lessor. Upon such delivery, the Lessee will cause an employee or agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Lessor under the applicable CSA and on behalf of itself hereunder and execute and deliver to the Lessor a certificate of acceptance (the "Certificate of Acceptance") in accordance with the provisions of Article 3 of the applicable CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5.1 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 3. RENTALS

3.1. Amount and Date of Payment. (1) The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, one interim rental payment on October 31, 1979, and 60 consecutive quarterly payments payable, in arrears, on January 31, April 30, July 31 and October 31, in each year, commencing January 31, 1980, to and including October 31, 1994. In respect of each Unit subject to this Lease, (a) the interim rental payment shall be in an amount equal to the

product of the Vendee Purchase Price (as defined in Paragraph 4.1 of the CSA) for each such Unit subject to this Lease multiplied by 0.02860822% for each day elapsed from and including the Closing Date (as defined in Paragraph 4.2 of the CSA) for such Unit to, but not including, October 31, 1979, and (b) the 60 quarterly rental payments shall each be in an amount equal to 2.6105% of the Vendee Purchase Price of each such Unit.

(2) In the event that there are any losses or liabilities arising out of or resulting from the Investments made pursuant to Paragraph 2 of the Participation Agreement, including, but not limited to, any Investment Deficiency in respect thereof, the rentals thereafter payable by the Lessee in respect of Units settled for concurrently with or after such losses, liabilities or deficiency arose shall be increased by such amount as shall, in the reasonable opinion of the Lessor, cause the Lessor's after-tax economic yields and cash flows, computed on the same assumptions, including tax rates, as were utilized by the Lessor in originally evaluating this transaction ("Net Economic Return") to equal the Net Economic Return that would have been realized by the Lessor if such loss or liability had not occurred.

(3) In addition to the foregoing rentals, the Lessee hereby agrees to pay to the Lessor as rent amounts equal to the amounts required by the Lessor to make the payments provided for in the last sentence of the first paragraph and in the last paragraph of Paragraph 8 of the Participation Agreement on the dates required for such payments in said Paragraph 8 (without regard to the limitation of the obligation of the Lessor set forth therein) and the Lessor agrees to apply such rentals for such purposes.

(4) Anything in the foregoing provisions of this § 3.1 to the contrary notwithstanding, it is agreed that the aggregate of the rentals payable pursuant to this § 3.1 on each rental payment date shall in no event be less than the principal and/or interest payment due on each such date pursuant to Article 4 of the CSAs.

3.2. Payments on Nonbusiness Days. If any of the rental payment dates referred to in § 3.1 is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Chicago, Illinois are authorized or obligated to remain closed.

3.3. Instructions To Pay Assignee. Upon execution and delivery of any lease assignment in writing and until the Lessee shall have been otherwise advised in writing, the Lessee shall pay all amounts so assigned in accordance with the instructions of any assignee.

3.4. Payment in Immediately Available Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

§ 4. TERM OF LEASE

4.1. Beginning and Termination; Survival. The term of this Lease as to each Unit shall begin on the date of acceptance of such Unit under a CSA and, subject to the provisions of §§ 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under §§ 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

4.2. Rights and Obligations of Lessee Subject to CSAs. Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the CSAs. If an event of default should occur under any CSA, the Vendor may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease survive the termination of its term, all as provided herein; provided, however, that so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent (as defined in the Participation Agreement) and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 hereof.

§ 5. IDENTIFICATION MARKS

5.1. Identifying Numbers; Legend; Changes. The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto, or in

the case of any Unit not there listed such identification number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the CSAs. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the CSAs shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

5.2. Insignia of Lessee. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates, but the Lessee will not allow the name of any other person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. GENERAL TAX INDEMNIFICATION

Whether or not the transactions contemplated hereby are consummated, the Lessee assumes responsibility for and agrees to pay, and agrees to protect, save, hold harmless and indemnify on an after-tax basis the Lessor and the Vendor and their successors and assigns (the "Indemnified Persons") against, all taxes, additions to tax, assessments, fees,

withholdings and other governmental charges of any nature whatsoever, including, without limitation, penalties, fines and interest (all such taxes, assessments, fees, withholdings, governmental charges, penalties, fines and interest being hereinafter called "Taxes"), howsoever imposed, whether levied, imposed on, or otherwise incurred by or asserted by any Federal, state or local government or governmental subdivision in the United States or any foreign country or subdivision thereof, against any Indemnified Person or any Unit in whole or in part on account of, or with respect to, this Lease, the CSAs, the CSA Assignments, the Lease Assignment or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Units or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return, or other disposition of the Units or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; provided, however, that there shall be no indemnification hereunder for any Taxes imposed on or measured solely by the net income or excess profits of the Lessor or the Vendor, other than Taxes arising out of or imposed with respect to the receipt of indemnification payments pursuant to this Lease. The Lessee shall pay all Taxes for which it assumes liability hereunder when such Taxes are due and will indemnify each Indemnified Person to the extent required by this § 6 within ten days after receipt of a written request by such Indemnified Person for indemnification specifying the amount to be paid, the basis on which such amount was determined and the nature of the Taxes in question; provided, however, that if any Taxes are being contested in accordance with the sixth paragraph of this § 6, any payment shall be made at the time therein provided.

In the event that the Lessor shall become obligated to make any payment to Pullman, NAC, RMC or the Vendor or otherwise pursuant to any corresponding provision of any CSA not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed Taxes hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to Taxes are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units.

To the extent that the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in the name of the Lessor and on its behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit its compliance with the requirements of taxing jurisdictions.

If any taxing authority shall assert liability for any Taxes or propose an increase in the liability of any Indemnified Person for any such Taxes (such assertion or such proposed increase being hereinafter called a "Claim"), indemnification for which would be required under this § 6, the Indemnified Person will notify the Lessee within a reasonable time of such Claim in writing. If the Lessee delivers to such Indemnified Person written notice of its desire to contest such Claim within 30 days after receipt of notice from such Indemnified Person, such Claim will be contested in accordance with this paragraph, except to the extent such Claim represents amounts payable to the Vendor under Article 6 of the CSAs. The Lessor will permit the Lessee to contest such claims under Article 6 of the CSAs in accordance with the rights of the Lessor thereunder. The Indemnified Person shall have the exclusive right to conduct the contest unless such is waived in writing, in which event the contest and all preparations therefor shall be the sole responsibility of the Lessee and, in either case, shall be conducted entirely at its expense. Such Indemnified Person will cooperate with any reasonable request made by the Lessee in connection therewith; provided, however, that such Indemnified Person may in its sole discretion determine in what court or other forum such contest will be conducted and whether such contest will proceed by payment of the Taxes in contemplation of a suit for refund, and such Indemnified Person shall not be required to take any action pursuant to this paragraph unless and until the Lessee shall have agreed to indemnify such Indemnified Person in a manner satisfactory to such Indemnified Person for any liability or loss which

such Indemnified Person may incur as a result of contesting the validity of any Claim and shall have agreed to pay such Indemnified Person on demand all costs and expenses which such Indemnified Person may incur in connection with contesting such Claim (including fees and disbursements of counsel). If in any such contest the decision is made to pay the Taxes and sue for a refund, the Lessee will advance to such Indemnified Person on an interest-free basis sufficient funds to pay the Taxes which are to be contested. Upon receipt by any Indemnified Person of a refund of any Taxes paid by the Lessee pursuant to this paragraph, the amount of such refund and any interest paid to such Indemnified Person with respect thereto shall be paid to the Lessee forthwith upon receipt by such Indemnified Person.

The Lessee covenants and agrees to pay all amounts due under this § 6 free of any Taxes and to indemnify each Indemnified Person against any Taxes imposed by reason of any payment made by the Lessee so that the Indemnified Person to whom or for whose benefit the payment is made shall receive an amount which, net of any Taxes or other charges required to be paid by such Indemnified Person in respect thereof, shall be equal to the amount of payment otherwise required hereunder.

In the event that the Lessee becomes liable for the payment or reimbursement of any Taxes pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Taxes are paid or reimbursed by the Lessee.

The foregoing indemnities are in addition to the indemnities provided for in the Indemnity Agreement.

§ 7. PAYMENT FOR CASUALTY OCCURRENCES AND INSURANCE

7.1. Definitions of Casualty Occurrence; Payments.

In the event that any Unit of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to § 14 or 17 hereof, or the purchase price of any Unit shall have been refunded by the builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental

entity resulting in loss of possession by the Lessee for a period of 90 consecutive days during the term of this Lease or during any renewal term hereof (a "Casualty Occurrence"), the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the next succeeding quarterly rental payment date (a "Casualty Payment Date"), the Lessee shall pay to the Lessor a sum equal to the Casualty Value (as defined in § 7.5 hereof) of any such Unit as of such Casualty Payment Date, plus the rental in respect of such Unit accrued as of such rental payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to § 14 or 17 hereof, the Lessee shall make such payment to the Lessor on a date 30 days after such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the builder of such Unit) the Lessor shall be entitled to recover possession of such Unit.

In addition to the occurrences constituting a Casualty Occurrence under the preceding paragraph, if any Unit shall have been taken or requisitioned by the United States Government or any other governmental entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Lessor with respect thereto and pay the Lessor, as the Casualty Value therefor, an amount equal to the Casualty Value as of the end of the term of the Lease in which the Casualty Occurrence shall have taken place. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value plus the Lessee's costs in such proceedings and any balance of such payments shall be the property of the Lessor. In the event such Unit shall be returned by the governmental entity, such Unit shall be returned by the Lessee to the Lessor in the manner provided in § 17 hereof. If the Lessor shall elect to retain such Unit, the Lessee shall be entitled to immediate payment of the amount of the Casualty Value paid by the Lessee plus the Lessee's costs in such proceedings less any condemnation payments received by the Lessee; and if the Lessor shall elect to sell such Unit, the Lessor shall cause such Unit to be sold, and the Lessee shall be entitled to the proceeds of such sale up to the amount of the Casualty Value paid by the Lessee plus the

Lessee's costs in such proceedings less any condemnation payments received by the Lessee.

7.2. Requisition by United States Government. In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Lessor or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

7.3. Lessee Agent for Disposal. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor (i) the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the builder pursuant to the patent indemnity provisions of the applicable CSA an amount equal to any payment made by the builder to the Lessor in respect thereof under such CSA.

7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease or any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

7.5. Amount of Casualty Value. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is to be made as aforesaid shall be an amount equal to that percentage of the Vendee Purchase Price of such Unit as is set forth in Annex B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event shall such amount be less than the Casualty Value (as defined in paragraph 7.3 of the CSAs)

as of such rental payment date.

7.6. No Release. Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

7.7. Insurance To Be Maintained. (1) The Lessee will at all times prior to the return of the Units to the Lessor, at its own expense, cause to be carried and maintained public liability insurance with respect to third party personal injury and property damage and property insurance in respect of the Units at the time subject hereto. The Lessee will carry such insurance in such amounts (in the case of public liability insurance not less than \$25,000,000 for any one occurrence), for such risks, with such deductibles and with such insurance companies, satisfactory to the Lessor and the Vendor and, in any event, consistent with prudent industry practice and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units. The proceeds of any such insurance shall be payable to the Vendor, the Lessor and the Lessee, as their respective interests may appear, so long as the indebtedness, if any, evidenced by the CSAs shall not have been paid in full, and thereafter to the Lessor, and, so long as there is no Event of Default hereunder, the Lessee as their respective interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Lessor and the Vendor, (ii) name the Lessor and the Vendor as additional named insureds as their respective interests may appear, (iii) waive any right to claim any premiums or commissions against the Lessor and the Vendor and (iv) not be a part of an umbrella policy containing any aggregate coverage limitations. In the event such policies shall contain breach of warranty provisions such policies shall provide that in respect of the interests of the Lessor and the Vendor in such policies the insurance shall not require contributions from other policies held by the Lessor or the Vendor and shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Lessor and the Vendor, respectively) and shall insure the Lessor and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or by any other person (other than the Lessor or the Vendor, respectively). At least five days prior to the first date of delivery of any Unit pursuant to any CSA,

and thereafter not less than 15 days prior to the expiration dates of the expiring policies theretofore delivered pursuant to this § 7, the Lessee shall deliver to the Lessor and the Vendor certificates issued by the insurer(s) for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of any certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Lessor may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor for the cost thereof together with interest, on the amount of the cost to the Lessor of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in § 19 hereof.

7.8. Insurance Proceeds and Condemnation Payments. If the Lessor shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of such Units suffering a Casualty Occurrence, the Lessor shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to any Unit theretofore paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Units, to the Lessor. All insurance proceeds received by the Lessor (directly or from the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 8. REPORTS

On or before March 31 in each year, commencing with the calendar year 1980, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSAs, the total number, description and

identification numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or then withdrawn from use pending repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5.1 hereof and by the CSAs have been preserved or replaced and (c) further stating that the Lessee is in compliance under the Lease and has performed or has caused to be performed the required maintenance of the Unit and that no event has occurred which with the lapse of time or notice or both would constitute an Event of Default. The Lessor and the Vendor shall each have the right by its agents to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Vendor may request during the continuance of this Lease.

§ 9. DISCLAIMER OF WARRANTIES

THE LESSOR DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the applicable builder under the provisions of Items 3 and 4 of Annex A of the CSAs; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility

or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Vendor based on any of the foregoing matters.

§ 10. LAWS AND RULES

10.1. Compliance. The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the CSAs.

10.2. Reports by Lessor. The Lessee agrees to prepare and deliver to the Lessor and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor and the Vendor) any and all reports (other than

income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee. No such report shall set forth information which is inconsistent with the ownership of the Units by the Lessor or which implies that this Lease is not a true lease.

§ 11. MAINTENANCE

11.1. Units in Good Operating Order. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted, and eligible for railroad interchange in accordance with the interchange rules of the American Association of Railroads and in the same condition as other similar Equipment owned or leased by the Lessee, which will conform to any conditions set forth in the applicable builder's warranties.

11.2. Additions and Accessions. (1) Except as set forth in §§ 10.1 and 11.1 hereof, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely affect the value of the Units). The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with § 11.2(2) hereof.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Vendee Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit in railroad interchange by the interchange rules of the Association of American Railroads or by the regulations

of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

§ 12. INDEMNIFICATION

12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Lessor, the Vendor and any assignee thereof, and their respective successors, assigns, agents and servants ("Indemnified Persons"), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSAs or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof; (ii) any latent and other defects whether or not discoverable by the Lessor, the Vendor or the Lessee; (iii) any claim for patent, trademark or copyright infringement; (iv) any claims based on strict liability in tort; (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Lessor, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof, except to the extent any such violation arises from the gross negligence

or wilful misconduct of the Lessor; or (vii) any claim arising out of any of the Lessor's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSAs or the Lease Assignment or the Participation Agreement, except to the extent such claim arises from the gross negligence or wilful misconduct of the Lessor. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any indemnification payment under this § 12, the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Lessor each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with

respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 12.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made and any costs incurred by the Lessee in defending such Indemnified Person. Nothing in this § 12.1 shall constitute a guarantee by the Lessee of the CSA Indebtedness of the Lessor under any CSA or a guarantee of the residual value of any Unit.

12.2. Indemnification of NAC, RMC and Pullman. The Lessee further agrees to indemnify, protect and hold harmless NAC, Pullman and RMC as third party beneficiaries hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against NAC, Pullman or RMC because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by NAC, Pullman or RMC or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by NAC, Pullman or RMC which infringes or is claimed to infringe on any patent or other right. The Lessee will give notice to NAC, Pullman or RMC of any claim known to the Lessee from which liability may be charged against it hereunder.

12.3. Survival. The indemnities contained in this § 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this § 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

§ 13. DEFAULT

13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, one or more of the following events (each such event being herein sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any amount

provided for in § 3, 7 or 16 hereof, and such default shall continue for 10 days;

(B) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein, in the Participation Agreement or the Indemnity Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

(D) any representation or warranty made by the Lessee herein, in the Participation Agreement or the Indemnity Agreement or in any certificate or statement furnished to the Lessor pursuant to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and the Indemnity Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(F) any other proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency

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

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises, insofar as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of

such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts that the Lessor, in its sole discretion shall specify, (i) a sum, with respect to each Unit, which represents (x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rental would have been payable hereunder had this Lease not been terminated over the then present value of the rental which the Lessor reasonably estimates to be obtainable for each Unit during such period, such present value to be computed on the basis of a 6.43% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of this Lease or (ii) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any unit, the Lessor, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

13.2. Remedies Not Exclusive; Waiver. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

13.3. Failure To Exercise Rights Is Not Waiver. The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

13.4. Notice of Event of Default. The Lessee agrees to furnish the Lessor and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

§ 14. RETURN OF UNITS UPON DEFAULT

14.1. Return of Units. If this Lease shall terminate pursuant to § 13 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and shall have attached or affixed thereto any special device considered an accession thereto as provided in § 11 and shall have removed

therefrom at the Lessee's expense any addition, modification or improvement which, as provided in § 11, is owned by the Lessee or, if Lessee wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) cause such Units to be stored on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) cause the same to be transported to any reasonable place as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

14.2. Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the

foregoing provisions of this § 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whosoever shall be in possession of such Unit at the time.

§ 15. ASSIGNMENT, POSSESSION AND USE

15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Lessor upon prior written consent of the Vendor and the Lessee, except that without such consent the rights of the Lessor hereunder shall be assignable to any Affiliate of the Lessor but without relieving the Lessor of its obligations hereunder or to any bank, trust company or financing company having a combined capital and surplus of at least \$100,000,000 and except that the rights of the Lessor hereunder shall be assignable to any other party so long as the Lessor shall, at the time of such assignment, agree in writing in a manner reasonably satisfactory to the Vendor and the Lessee and any assignee hereof to indemnify the Vendor, the Lessee and any assignee hereof and to hold the Vendor, the Lessee and any assignee hereof harmless from and against, any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against the Vendor, the Lessee or any assignee hereof resulting from, arising out of or in connection with such assignment. For the purpose of the § 15, "Affiliate" shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, the party in question, and "control" as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and

the CSAs. Without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in paragraph (2) below of this § 15.2; and the Lessee shall not, without the prior written consent of the Lessor and the Vendor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of paragraph (2) of this § 15.2. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

(2) So long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments as defined in the Lease Assignment in accordance with the Lease Assignment, the Lessee shall be entitled to the possession and use of the Units by it or any Affiliate upon lines of railroad owned or operated by it or any such Affiliate or upon lines of railroad over which the Lessee or any such Affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such Affiliate is regularly operated pursuant to contract and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. The Lessee may sublease the Units without the consent of the Lessor, but only upon and subject to all the terms and conditions of this Lease and the CSAs, to any financially responsible entity for a period of up to two years; provided, however, that (i) a copy of each such sublease shall be furnished to the Vendee prior to its effective date and (ii) each such sublease shall contain words to the following effect: "The rights of the sublessee under this sublease are subordinate and junior to the rights and remedies of Chemical Bank (the "Lessor") under a Lease of Railroad Equipment (the "Lease") dated as of April 1, 1979, between Peavey Company and the Lessor and to the rights of La Salle National Bank under the Conditional Sale Agreements referred to in the Lease"; provided further, however, that the Lessee shall not sublease or permit the use of any Unit predominantly outside the

United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee sublease to, or permit the use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may sublease the Units for a longer period of time with the consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee may receive and retain compensation for the use of any of the Units from railroads or other entities so using such Units.

15.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this § 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 16. RENEWAL OPTION

16.1. Renewal Option. The parties hereto contemplate that at the end of the original term of this Lease, the Lessor will hold the Units for re-lease. Prior to the delivery of any Unit pursuant to § 2 hereof, the Lessor will enter into an agreement (the "Option Agreement") with Tiger Financial Services, Inc. ("TFS"), pursuant to which the Lessor will grant to TFS the option to lease all but not less than all of the Units then subject to this Lease for one five-year term commencing at the end of the original term of this Lease on such terms as are set forth in the Option Agreement. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, if TFS shall fail to exercise its option to lease the Units at the end of the original term of this Lease, the Lessee may, by written notice delivered to the Lessor not less than 180 days nor more than 270 days prior to the end of the original term of this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years or such other time acceptable to both the Lessee and Lessor commencing on the scheduled expiration of such original term of this

Lease, at a "Fair Market Rental" payable, in arrears, in quarterly payments on the month and day such rentals were payable for the Units in each year of such extended term. In the event of any such renewal, the Casualty Value payable in respect of a Casualty Occurrence involving any unit shall be as set forth in Schedule B hereto.

16.2. Determination of Fair Market Rental.

(1) Fair Market Rental shall be determined for the extended term of this Lease on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental.

(2) If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 90 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings

shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

§ 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit, and in any event not later than 30 days thereafter, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may reasonably designate (such storage tracks to be located in one of the following states: Illinois, Iowa, Minnesota, Montana, Nebraska, North Dakota or South Dakota), or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months from the date of delivery of the last such unit and transport the same upon disposition of the Units, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this § 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect for railroad interchange under the interchange rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in § 11 hereof and have removed therefrom any such device not so considered an accession or, if Lessee

wishes not to remove the same and if the Lessor consents thereto, the same will remain affixed to such Unit and title thereto will immediately vest in the Lessor. During any such storage period the Lessee shall maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If any Unit is not so delivered in the condition required to be delivered under this § 17 within 30 days after the expiration of this Lease or any renewal hereof, the Lessee shall pay to the Lessor for each day thereafter until such Unit is so delivered an additional amount equal to the higher of the daily interchange rate for that interchange or 0.02860822% of the Vendee Purchase Price of such Unit per day.

§ 18. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSAs, the CSA Assignments and the Lease Assignment to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Lessee will undertake the filing, registering, deposit and recording required of the Lessor under the CSAs. The Lessee in addition will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSAs, the CSA Assignments and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease, the CSAs, the CSA Assignments and the Lease Assignment shall be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Unit.

§ 19. INTEREST ON OVERDUE RENTALS

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to interest at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 20. LESSOR'S RIGHT TO PERFORM FOR THE LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the higher of 10.9% per annum or 2% above the prime rate of Chemical Bank from time to time in effect shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Lessor shall be deemed a waiver of the rights and remedies of the Lessor or any assignee of the Lessor against the Lessee hereunder.

§ 21. NOTICES

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at Suite 1822, 55 Water Street, New York, New York 10041, Attention of Manager, Specialized Leasing, with a copy to Benjamin D. Fein, Esq., Messrs. Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, N. Y. 10022;

(b) if to the Lessee, at 730 Second Avenue South, Minneapolis, Minnesota 55402, Attention of Legal Department,

or addressed to either party at such other address as such

party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at 135 South La Salle Street, Chicago, Illinois 60690, Attention of Corporate Trust Department.

§ 22. SEVERABILITY

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

§ 23. EFFECT AND MODIFICATION OF LEASE

Except for the Participation Agreement, the Indemnity Agreement and the Consent, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

§ 24. THIRD PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Vendor, any builder and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

§ 25. EXECUTION

This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed dupli-

cates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 26. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Minnesota; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

§ 27. IMMUNITIES; NO RECOURSE

No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Lease.

§ 28. AGREEMENTS FOR BENEFIT OF LESSOR'S ASSIGNS

All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns including the Vendor.

§ 29. TERM LESSOR

Whenever the term Lessor is used in this Lease it shall apply and refer to the Lessor and any assignee of the Lessor including, so long as any CSA Indebtedness under the CSAs or interest thereon shall remain unpaid or any other obligation thereunder be continuing, the Vendor.

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

PEAVEY COMPANY,

by

[Corporate Seal]

Attest:

Assistant Secretary

CHEMICAL BANK,

by

Vice President

[Seal]

Attest:

Authorized Officer

STATE OF MINNESOTA,)
) ss.:
COUNTY OF ,)

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 PEAVEY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

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 Vice President of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

[Notarial Seal]

My Commission expires

APPENDIX A TO LEASE

Type	AAR Mechanical Designation	Builder's Specifications	Builder's Plant	Quantity	Lessee's Identification Numbers (Both Inclusive)	Estimated Unit Base Price	Estimated Total Base Price	Estimated Time and Place of Delivery
100 Ton Covered Hopper Cars 4750 c.f. cap	LO	1027 2/15/79	Butler, Pennsylvania	125	PVEX 1075-1199	\$42,948.50	\$5,368,562.50	September-October 1979 at Butler, Pennsylvania
100 Ton Covered Hopper Cars 2785 c.f. cap	LO	3000 Model PD	Chicago Ridge, Illinois	12	PVEX 508-519	51,741	620,892	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 3915 c.f. cap	LO	4000 Model PD	Chicago Ridge, Illinois	8	PVEX 500-507	56,041	448,328	June 1979 at La Crosse, Wisconsin
100 Ton Covered Hopper Cars 4750 c.f. cap	LO	1027 2/15/79	Butler, Pennsylvania	75	PVEX 1000-1074	42,948.50	3,221,137.50	June-July 1979 at Butler, Pennsylvania
							<u>\$9,658,920.00</u>	

APPENDIX B TO LEASE

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/79	108.3149
1/80	107.8939
4/80	108.3129
7/80	108.5779
10/80	108.7339
1/81	108.8399
4/81	108.8909
7/81	108.9779
10/81	108.5429
1/82	108.2209
4/82	107.8459
7/82	107.4049
10/82	106.9079
1/83	106.3339
4/83	105.7079
7/83	105.0169
10/83	104.2669
1/84	103.4459
4/84	102.5749
7/84	101.6469
10/84	100.6669
1/85	99.6209
4/85	98.5279
7/85	97.3869
10/85	96.2009
1/86	94.9549
4/86	93.6629
7/86	92.3359
10/86	90.9699
1/87	89.5509
4/87	88.0899
7/87	86.6039
10/87	85.0879
1/88	83.5259
4/88	81.9249
7/88	80.3089

* As defined in Paragraph 4.1 of the CSAs.

<u>Casualty Payment Dates</u>	<u>Percentage of Vendee Purchase Price*</u>
10/88	78.6689
1/89	76.9899
4/89	75.2789
7/89	73.5469
10/89	71.8029
1/90	70.0219
4/90	68.2029
7/90	66.3859
10/90	64.5529
1/91	62.6889
4/91	60.7859
7/91	58.8939
10/91	56.9869
1/92	55.0559
4/92	53.0859
7/92	51.1339
10/92	49.1739
1/93	47.1929
4/93	45.1739
7/93	43.1679
10/93	41.1519
1/94	39.1159
4/94	37.0479
7/94	34.9929
10/94	32.1509
1/95	32.4639
4/95	32.0159
7/95	31.5889
10/95	31.1789
1/96	30.7989
4/96	30.4059
7/96	29.9489
10/96	29.4419
1/97	28.9259
4/97	28.3939
7/97	27.8589
10/97	27.3159
1/98	26.7629
4/98	26.1919
7/98	25.6189
10/98	26.0369
1/99	24.4439
4/99	23.8329
7/99	23.7119
10/99	23.5909

* As defined in Paragraph 4.1 of the CSAs.

ANNEX D
to
Conditional Sale Agreement

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

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