STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036-1795

PHOENIX, ARIZONA
TWO RENAISSANCE SQUARE
TELEPHONE: (602) 257-5200
FACSIMILE: (602) 257-5299

(202) 429-3000
FACSIMILE: (202) 429-3902
TELEX: 89-2503

STEPTOE & JOHNSON INTERNATIONAL
AFFILIATE IN MOSCOW, RUSSIA
TELEPHONE: (011-7-501) 258-5250
FACSIMILE: (011-7-501) 258-5251

20003

APR 19 1996 PM

April 19, 1996

INTERSTATE COMMERCE COMMISSION

APR 19 11 55 AM '96

Counterparts

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Room 2214
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for filing and recordation pursuant to 49 U.S.C. § 11301 are one original and two executed counterparts of the mortgage hereinafter described, a primary document. It relates to railroad equipment identified below.

Pledge and Security Agreement, dated as of April 1, 1996 between (1) American Passenger Rail Car Company, L.L.C., as debtor and (2) Fidelity and Deposit Company of Maryland, as secured party.

The equipment subject to this document consists of any and all railroad cars and other rolling stock constituting Collateral (as defined in Attachment A).

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

Debtor: American Passenger Rail Car Company, L.L.C.
900 East 103rd Street
Chicago, Illinois 60628

Secured Party: Fidelity and Deposit Company of Maryland
300 Saint Paul Place
Baltimore, MD 21202

Please file and record the document with indexing under the foregoing names.

A fee of $21.00 is enclosed for the recordation. Please return the original and any extra copies not needed by the Commission for recordation to the person presenting this letter.

A short summary of the document to appear in the index follows:

Pledge and Security Agreement, dated as of April 1, 1996 between (1) American Passenger Rail Car Company, L.L.C., as debtor and (2) Fidelity and Deposit Company of Maryland, as secured party, covering all of the Collateral.

Very truly yours,

Scott Katzman
Attorney for Fidelity and
Deposit Company of Maryland

Enclosures

Attachment A

"Collateral" shall mean all of the collateral listed or described in Section 1.A., Section 2 and Exhibit A of the Pledge and Security Agreement, including without limitation, the rights, title, and interest of the Debtor in and to all finished railroad cars and unfinished railroad cars constructed, under construction, or to be constructed under the Contract, as defined below, and all component parts thereof and all inventory therefor; and, to the extent not otherwise included, all proceeds of the foregoing, in any form (including, without limitation, any insurance proceeds, and all claims by the Debtor against third parties for loss or damage to, or destruction of, or otherwise relating to any or all of the foregoing) and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing.

"Contract" shall mean that certain Agreement for the Purchase of Viewliner Equipment, dated February 1, 1993, by and between Morrison Knudsen Corporation ("MK") and the National Railroad Passenger Corporation ("Amtrak"), as modified by Change Order 1 and Change Order 2, and as further modified by Amendment to Amtrak Contract dated October 10, 1995, by and between MK and Amtrak and as assigned to the Debtor, pursuant to the Assignment of Contract dated October 10, 1995, by and among Amtrak, the Debtor and MK, pursuant to which Amtrak is to purchase up to 100 Viewlinder sleeper cars from the Debtor.

The general description of the rairoad cars which are part of the Collateral is as follows:

Amtrak Viewliner Cars, numbered 23001-23050.

20023
RECORDATION NO. FILED
APR 19 1996 12 00 PM
INTERSTATE COMMERCE COMMISSION

PLEDGE AND SECURITY AGREEMENT

THIS PLEDGE AND SECURITY AGREEMENT (this "Agreement") is made as of April 1, 1996 by American Passenger Rail Car Company, L.L.C., a Delaware limited liability company (the "Company"), in favor of Fidelity and Deposit Company of Maryland, a corporation duly organized under the laws of the State of Maryland ("F&D"), individually and as agent (in such capacity, the "Agent") for the Lenders (as defined below).

RECITALS

WHEREAS, the National Railroad Passenger Corporation, a District of Columbia Corporation ("Amtrak") is a rail carrier operating pursuant to 49 U.S.C. §24301 to provide intercity and commuter passenger rail transportation;

WHEREAS, Amtrak has entered into that certain Agreement for the Purchase of Viewliner Equipment, dated February 1, 1993 with Morrison Knudsen Corporation ("MK"), as modified by Change Order 1 and Change Order 2 (the "Original Contract"), and as further modified by Amendment to Amtrak Contract dated October 10, 1995, by and between MK and Amtrak and as assigned to the Company, pursuant to the Assignment of Contract dated October 10, 1995, by and among Amtrak, the Company and MK (the "Commercial Contract"), pursuant to which (i) Amtrak is to purchase certain rolling stock (the "Units") from the Company, (ii) the Company is to manufacture and sell such Units to Amtrak, and (iii) on request of Amtrak, the Company is to provide Amtrak with short-term and long-term financing for the purchase of the Units in accordance with Exhibit F to the Commercial Contract pursuant to Section 12 thereof.

WHEREAS, the Lenders (as defined below) have provided a performance bond, Performance Bond 6565173, to support the contractor's performance under the Original Contract, including but not limited to its obligation to provide financing for the Units, and have entered into the Reaffirmation and Consent dated October 10, 1995 with Amtrak, pursuant to which the Lenders (as defined below) have, among other things, consented to the amendment and assignment of the Original Contract, as aforesaid, and acknowledged and reaffirmed their joint and several obligation to Amtrak for the performance of the Commercial Contract (such performance bond, as modified by such Reaffirmation and Consent, the "Bond").

WHEREAS, Amtrak has requested that the Company provide it with short-term financing for the purchase of the Units in accordance with Exhibit F of the Commercial Contract, pursuant to Section 12 thereof.

WHEREAS, the Company has notified Amtrak and F&D, Swiss Reinsurance America Corporation, Prudential Reinsurance Company, Universal Underwriters Insurance Company, American Re-insurance Company, Employers Reinsurance Corporation, and Reinsurance Corporation of New York (the "Lenders") of its inability to meet its obligation under the Commercial Contract to provide financing for the purchase of the Units in accordance with Exhibit F of the Commercial Contract, pursuant to 12 thereof, and requested that the Lenders provide such financing in its place and stead, in performance of the Lenders' obligations under the Bond.

WHEREAS, the Lenders have agreed to provide such financing to Amtrak as set forth under the terms and subject to the conditions of that certain Loan Agreement dated as of April 1, 1996 (said Agreement, as it may hereafter be amended or otherwise modified from time to time, being the "Loan Agreement).

WHEREAS, it is a condition precedent to the making of Advances (as defined in the Loan Agreement, by the Lenders that the Company shall have granted the security interest contemplated by this Agreement.

NOW, THEREFORE, for the mutual premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties hereto agree as follows.

AGREEMENT

1. Definitions. Unless otherwise defined in this Agreement, capitalized terms used herein shall have the meanings given to them in the Loan Agreement. As used in this Agreement, the following terms shall have the meanings set forth below:

A. "Collateral" shall have the meaning set forth in **Section 2** of this Agreement.

B. "Event of Default" shall have the meaning set forth in **Section 9** of this Agreement.

C. "License" means any Patent License, Trademark License or other license of rights or interests now held or hereafter acquired by the Company.

D. "Operating Account" shall have the meaning set forth on Exhibit A.

E. "Patent License" means rights under any written agreement now owned or hereafter acquired by the Company granting

any right with respect to any invention on which a Patent is in existence.

F. "Permitted Liens" shall mean (i) Liens for taxes, assessments or governmental charges or levies in each case not due and delinquent, (ii) the Lien of the Pledge and Security Agreement (Surety Bond Obligations) dated as of October 10, 1995 by the Company in favor of F&D, (iii) the Lien of the Pledge and Security Agreement (Reimbursement Obligations) dated as of October 10, 1995 by the Company in favor F&D, and (iv) the Lien of the Security Agreement dated as of October 10, 1995 by the Company in favor of Bank of America National Trust and Savings Association.

G. "Secured Obligations" means (1) the Secured Obligations as defined in Section 2 of the Security Agreement (as defined in the Loan Agreement) and (2) the obligations of the Company hereunder.

H. "Trademark License" means rights under any written agreement now owned or hereafter acquired by the Company granting any right to use any Trademark or Trademark registration.

I. "Trademarks" means all of the following now owned or hereafter acquired by the Company: (i) all trademarks, trade names, corporate names, business names, trade styles, service marks, logos, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, including registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State or Territory thereof, or any other country or any political subdivision thereof, and (ii) all reissues, extensions or renewals thereof.

J. "Uniform Commercial Code" means the Uniform Commercial Code as the same may, from time to time be in effect in the State of New York; provided, that in the event that, by reason of mandatory provision of law, any or all of the attachment, perfection or priority of, or remedies with respect to, the Lenders' security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "Uniform Commercial Code" shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions of this Agreement relating to such attachment, perfection, priority or remedies and for purposes of definitions related to such provisions.

2. Security Interest. To secure the prompt payment and performance when due of the Secured Obligations and to induce the Lenders to enter into the Loan Agreement, the Company hereby grants, assigns and pledges to the Agent for its benefit and the benefit of the Lenders, as secured parties, to secure the Secured Obligations, a Lien on and security interest in all of the property described on **Exhibit A** hereto, whether now existing or hereafter created or acquired, and wherever located, together with any and all replacements, renewals, or accessions thereto and all proceeds and products thereof (collectively, the "Collateral"); provided, however, that notwithstanding any provision to the contrary contained in this Agreement, the Company does not grant, and Agent for its benefit and the benefit of the Lenders has not taken, a Lien against or security interest in any Hazardous Materials in which the Company may now or hereafter acquire any interest or possess, manage or control.

In addition, the Company hereby grants to the Agent for its benefit and the benefit of the Lenders, as secured parties, to secure the Secured Obligations, a security interest in, and pledges to Agent for its benefit and the benefit of the Lenders, all property of the Company constituting Collateral held by or on behalf of Agent for its benefit and the benefit of the Lenders, including all property constituting Collateral of every description now or hereafter in the possession or custody of, or in transit to Agent for its benefit and the benefit of the Lenders, for any purpose, including safekeeping, collection or pledge, for the account of the Company, or as to which the Company may have any right or power.

3. Representations and Warranties. The Company hereby represents and warrants that:

3.1 Authority; Execution. The Company has the right and power and is duly authorized and empowered to enter into, execute, deliver and perform this Agreement, and any other agreements, documents or instruments executed in connection herewith or therewith. The Company's execution and performance of this Agreement will not constitute, cause or result in any breach or violation of any provision of the articles of incorporation or by-laws of the Company, any Requirement of Law or any Contractual Obligation of the Company and do not conflict with, constitute a default or require any consent under or result in the creation of any Lien that would not be a Permitted Lien upon any property or assets of the Company pursuant to any Contractual Obligation of the Company. Upon execution, this Agreement will constitute a valid and binding obligation of the Company to the Agent for its benefit and the benefit of the Lenders that is enforceable according to its terms, except as the enforceability of this Agreement may be subject to or limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors and except as the availability of equitable remedies

are subject to the application of equitable principles. No further consent, ratification or approval is required for this Agreement to be effective.

3.2 No Further Approvals Required. No consent, approval, authorization or other order of any person or entity and no consent, authorization, approval, or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required to be made or obtained by the Company.

3.3 Locations of Offices and Collateral; Federal Taxpayer Identification. The Company's chief executive office(s), principal places of business, corporate offices, and the locations of all of their records concerning the Collateral are set forth fully on the attached **Schedule 1.** The Company's federal taxpayer identification number is 36-4043006.

3.4 Title to Collateral. The Company is the sole owner of each item of the Collateral and has title to the Collateral free and clear of any and all claims, assessments, encumbrances, Liens, and security interests of any kind or nature, except for the Liens and security interests of the Lenders and the other Permitted Liens.

3.5 No Other Liens. No security agreement, chattel mortgage, other security or lien instrument, financing statement or continuation statement covering all or any part of the Collateral is on file or of record in any public office, except such as may have been filed in favor of Agent for its benefit and the benefit of the Lenders pursuant to this Agreement or any other agreement between the Company and the Agent for its benefit and the benefit of the Lenders, or such as relate to other Permitted Liens.

3.6 Perfection of Security Interest in the Collateral. The security interest granted to Agent for its benefit and the benefit of the Lenders in the Collateral under this Agreement is a duly perfected security interest in favor of Agent for its benefit and the benefit of the Lenders to secure the Secured Obligations.

3.7 Intentionally Omitted.

3.8 Change of Name. The Company has not within the last five years done business under any trade name or style other than its name as stated herein.

4. Covenants. The Company covenants and agrees that from and after the date of this Agreement and until this Agreement is terminated in accordance with provisions of **Section 15** hereof:

4.1 Maintenance of Records. The Company shall keep and maintain, at its own cost and expense, satisfactory and complete records of the Collateral, including a record of any and all payments received and any and all credits granted with respect to the Collateral and all other dealings with the Collateral. The Company shall mark its books and records pertaining to the Collateral to evidence this Agreement and the security interests hereunder. All chattel paper constituting Collateral shall be marked with the following legend: "THIS WRITING AND THE OBLIGATIONS EVIDENCED OR SECURED HEREBY ARE SUBJECT TO THE SECURITY INTEREST OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND, SWISS REINSURANCE AMERICA CORPORATION, PRUDENTIAL REINSURANCE COMPANY, UNIVERSAL UNDERWRITERS INSURANCE COMPANY, AMERICAN RE-INSURANCE COMPANY, EMPLOYERS REINSURANCE CORPORATION, AND REINSURANCE CORPORATION OF NEW YORK." As further security, the Company agrees that the Agent for its benefit and the benefit of the Lenders shall have a security interest in all of the Company's books and records pertaining to the Collateral and, upon the occurrence and during the continuation of any Event of Default, the Company shall deliver and turn over any such books and records to the Agent or to its representatives at any time on demand.

4.2 Disposition of Collateral. Except to the extent expressly permitted under Section 4.11 of this Agreement, and except for the sale and delivery of railroad cars to Amtrak under the Commercial Contract, the Company shall not sell, transfer, exchange, assign, or otherwise dispose of any of the Collateral, or any rights related to any of the foregoing.

4.3 Further Assurances with Respect to the Collateral. The Company will, at the Company's expense, promptly execute, acknowledge, and deliver all such instruments and take all such action as the Agent for its benefit and the benefit of the Lenders from time to time may reasonably request in order to ensure to the Agent for its benefit and the benefit of the Lenders the benefits, priorities and due perfection of the Liens and security interests in and to the Collateral intended to be created by this Agreement, including without limitation filing any financing or continuation statements under the Uniform Commercial Code with respect to the Liens and security interests granted hereunder. The Company also hereby authorizes the Agent to file any such financing or continuation statement without the signature of the Company to the extent permitted by applicable law and to the extent that such financing or continuation statements relate to the Secured Obligations.

4.4 Delivery of Notes, Documents and Chattel Paper. To the extent any such items constitute Collateral, the Company shall deliver to the Agent or its designee all now existing or hereafter created or arising (i) original promissory notes payable to the Company, assigned to the Company, pledged to the Company or otherwise held by the Company, together with all

corresponding documents including deeds of trust, security agreements and title insurance policies, with such endorsements thereto as may reasonably require, (ii) instruments (except for checks which are deposited in the ordinary course of the Company's business), (iii) documents, and (iv) chattel paper, in each case, promptly upon the execution of this Agreement or the Company's receipt of any such item, as the case may be.

4.5 Insurance. The Company shall maintain insurance policies, with financially sound and reputable companies, insuring (i) the Company's inventory, fixtures, equipment and other tangible properties constituting Collateral against loss by fire, explosion, theft and such other casualties as are usually insured against by companies engaged in a similar business, and (ii) the Company against liability for personal injury and property damage relating to such inventory, fixtures, and equipment. Such policies are to be in such amounts and against at least such risks as are usually insured against in the same general area by companies engaged in a similar business, and in any event in an amount sufficient to preclude the Company from being deemed a co-insurer, and the Company shall obtain, at its expense, a lender's loss payable endorsement (form BFU-438 or equivalent) for the benefit of the Lenders and shall name F&D Swiss Reinsurance America Corporation, Prudential Reinsurance Company, Universal Underwriters Insurance Company, American Re-insurance Company, Employers Reinsurance Corporation, and Reinsurance Corporation of New York as additional insureds on each such policy. All such policies of insurance and endorsements shall be satisfactory to the Agent as to form, amount and insurer. The Company hereby assigns to the Agent for its benefit and the benefit of the Lenders all of its right, title and interest in and to any insurance policies insuring the Collateral, including all rights to receive the proceeds of insurance, (provided, that prior to the occurrence of an Event of Default, the Company may use such proceeds to procure equivalent replacement Collateral) and directs all insurers to pay all such proceeds directly to the Agent for its benefit and the benefit of the Lenders and authorizes the Agent for its benefit and the benefit of the Lenders to endorse the Company's name on any instrument for such payment.

4.6 Use and Standards of Use and Repair. Prior to the sale and delivery of railroad cars to Amtrak under the Commercial Contract, the Company will repair, keep in repair and cause the finished or unfinished railroad cars and all component parts thereof which are Collateral hereunder ("Car Collateral"), to be used in a careful and proper manner consistent with the design and intended use thereof, subject, however, to the reasonable requirements of the Company's business, and will comply with and conform to and with all current and future federal, state, municipal, police and other laws, ordinances and regulations relating to the possession, use or maintenance of the Car Collateral. The Company will comply with all rules,

interpretations, codes and orders governing use, hire, condition, repair and all other matters interpreted as being applicable to the Units during the effectiveness hereof by and of the American Association of Railroads ("AAR") and any other organization, association, agency or governmental authority, including the Department of Transportation, which may during the effectiveness hereof be responsible for or have authority to promulgate such rules, interpretations, codes and orders. The Company agrees to indemnify and hold Agent safe and harmless from and against any and all claims, costs, expenses (including without limitation attorney's fees), damages and liabilities claimed, arising from or pertaining to such laws, ordinances, regulations, rules, interpretations, codes and orders. The Company will not remove or permit the removal of any Car Collateral from the United States of America without the prior written consent of Agent.

4.7 Damage or Destruction. The Company will notify the Agent of any destruction of or any substantial damage to any of the Collateral in excess of Two Hundred and Fifty Thousand Dollars ($250,000) within five (5) Business Days after the occurrence thereof.

4.8 Change in Address and Location of Collateral. The Company shall notify the Agent of any change in the Company's trade name, identity, federal taxpayer identification number, chief place of business, chief executive office, location where Collateral is located or stored, location of the records regarding the Collateral or any additional mailing addresses within thirty (30) days of such change or addition.

4.9 Indemnification. In any suit, proceeding or action brought by the Agent for its benefit and the benefit of the Lenders relating to any of the Company's accounts, chattel papers, material contracts, general intangibles, instruments or documents constituting Collateral for any sum owing thereunder, or to enforce any provision of any such account, chattel paper, material contract, general intangible, instrument or document, the Company shall save, indemnify and keep the Agent and the Lenders harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of the obligor thereunder or arising out of a breach by the Company of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to, or in favor of, such obligor or its successors from the Company, and all such obligations of the Company shall be and remain enforceable against, and only against, the Company and shall not be enforceable against the Agent or the Lenders.

4.10 Notices. The Company shall advise the Agent promptly, and in reasonable detail, of (i) any Lien, other than a Permitted Lien, attaching to or asserted against any of the Collateral, (ii) any material change in the composition of the

Collateral and (iii) the occurrence of any other event which would have a material adverse effect upon the Collateral and/or the Agents' Lien hereunder.

4.11 Use of Proceeds.

(a) The Company agrees that proceeds from the Advances under the Loan Agreement will be applied solely to the payment of (i) subcontractors, laborers, and materialmen, or other persons furnishing or supplying labor, materials, supplies, machinery, tools or other equipment used only for the performance of the Commercial Contract (the "Amtrak Expenses"), and (ii) the obligations of the Company under the Credit Agreement dated as of October 10, 1995, by and between the Company and Credit Suisse (the "Credit Suisse Loan Agreement"), to repay advances made by Credit Suisse under the Credit Suisse Loan Agreement, only to the extent that before the date hereof such advances were applied toward payment of Amtrak Expenses. The Company agrees that proceeds from the Advances under the Loan Agreement shall not be applied to any other cost, expense or liability of any nature whatsoever. No less frequently than weekly, commencing on April 18, 1996 through April 7, 1997 and on the first day of each month thereafter, the Company shall provide to the Agent a certificate from the chief financial officer of the Company, stating the following: "The undersigned hereby certifies that, to the best of my knowledge after due inquiry in my capacity as chief financial officer of American Passenger Rail Car Company, L.L.C., no loan proceeds or any other payments under the Loan Agreement dated as of April 1, 1996 have been applied to any cost or expense that is not permitted under Section 4.10 of the Pledge and Security Agreement dated as of April 1, 1996."

(b) Whenever the Company desires a disbursement of amounts in the Operating Account, at least one Business Day prior to requesting any such disbursement, the Company shall provide a disbursement notice to F&D, as Agent for the Lenders substantially in the form of Exhibit B, which shall be (i) appropriately completed to specify the date of such disbursement (which shall be a Business Day) and the aggregate principal amount of such disbursement and (ii) shall be delivered no more often than three times in any calendar week.

4.12. Organizational Documents, Incumbency Certificates and Insurance Certificates. The organizational documents, incumbency certificates and insurance certificates which the Company delivered to the Agent on or prior to the date hereof are true, complete and accurate in all respects.

5. Agents Appointed Attorney-in-Fact. The Company hereby irrevocably appoints the Agent and any officer or agent thereof, with full power of substitution, as the Company's true and lawful attorney-in-fact, with full irrevocable power and authority in

the place and stead of the Company and in the name of the Company, from time to time after an Event of Default, for the purpose of carrying out the terms of this Agreement, to take any action and to execute any instrument which the Agent and the Lenders may deem necessary or advisable to accomplish the purpose of this Agreement with respect to the Secured Obligations, including, without limitation:

(a) to take possession of, endorse and receive payment of any checks, drafts, notes, acceptances, or other instruments for the payment of monies due under any Collateral;

(b) to continue or obtain or adjust any insurance required pursuant to the terms of this Agreement, and pay all or any part of the premiums therefor and the costs thereof;

(c) to ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for monies due and to become due under or in respect of any of the Collateral;

(d) to receive payment of any and all monies, claims, and other amounts due or to become due at any time arising out of or in respect of any Collateral;

(e) to file any claims or take any action or institute any proceedings which the Agent may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Agent with respect to any of the Collateral or otherwise with respect to any of the Secured Obligations;

(f) to direct any party liable for any payment under or in respect of any of the Collateral to make payment of any and all monies due or to become due thereunder, directly to the Agent or as the Agent may direct;

(g) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, and notices in connection with accounts and other documents constituting or relating to the Collateral;

(h) to settle, compromise or adjust any claim, suit, action, or proceeding, as deemed appropriate by the Agent for the purpose of collecting any and all monies due under any Collateral, including, without limitation, any such claims or actions relating to any policy of insurance, and in connection therewith, give such discharges or releases as the Agent may deem appropriate;

(i) in its own name or in the name of the Company to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any part thereof and to enforce any other right in respect of any Collateral;

(j) to defend any suit, action or proceeding brought against the Company with respect to any Collateral if the Company does not defend such suit, action or proceeding or if the Agent believes that the Company is not pursuing such defense in a manner that will maximize the recovery with respect to such Collateral;

(k) Intentionally Omitted.

(l) to sell, transfer, pledge, repair, make any agreement with respect to, or otherwise deal with any of the Collateral as fully and completely as though the Agent were the absolute owner thereof for all purposes, and to do, at the Agent's option and the Company's expense, at any time, or from time to time, all acts and things which the Lenders reasonably deems necessary or advisable to perfect, preserve, or realize upon the Collateral and the security interest of the Agent for its benefit and the Lenders therein in order to effect the intent of this Agreement, all as fully and effectively as the Company might do.

The Company hereby ratifies all actions that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable for the life of this Agreement.

6. Agent May Perform. If the Company fails to perform any agreement contained herein, the Agent may itself perform, or cause performance of, such agreement, and the reasonable expenses of the Agent incurred in connection therewith shall be payable by the Company under **Section 17.13** hereof. The Agent shall inform the Company of any such performance by the Agent.

7. Agent's Duties; Release of Accounts. The powers conferred on the Agent hereunder are solely to protect the of the Agent for its benefit and the Lenders interest in the Collateral and shall not impose any duty upon the Agent to exercise any such powers. The Agent shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder.

8. Verification of Collateral. The Agent shall have the right to make physical verifications and appraisals of the Collateral in any manner that it considers advisable. The Company agrees to execute and deliver any instruments or other

documents, take all such action and furnish all such assistance and information as the Agent may require in order to effectuate the purposes of this **Section 8.**

9. Events of Defaults. The Company's breach of any promise, covenant, representation, warranty, agreement or undertaking under this Agreement, if such breach is not cured within [ten] days after Agent delivers notice of such breach to the Company.

10. Rights and Remedies Upon Default. If an Event of Default shall have occurred and be continuing and any applicable notice or cure periods shall have expired:

(a) The Agent may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein all the rights and remedies of a secured party on default under the Uniform Commercial Code (whether or not the Uniform Commercial Code applies to the affected Collateral), and also may (i) require the Company to, and the Company hereby agrees that it will at its own expense and upon the request of the Agent forthwith, assemble all or part of the Collateral as directed by the Agent and make it available to the Agent at a place to be designated by the Agent, which is reasonably convenient to both parties, and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Agent's offices or elsewhere, for cash, on credit or for future delivery, and at such price or prices and upon such other terms as the Agent may deem commercially reasonable. The Agent agrees that it shall give the Company at least ten (10) days' notice, or such longer period as shall be required by applicable law, of the time and place of any public sale or the time after which any private sale is to be made. The Company agrees that such notice shall constitute reasonable notification. The Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Agent may reject any and all bids at any public sale which, in the Agent's sole discretion, it shall deem inadequate. The Agent may purchase all or any part of the Collateral at public sale or, if permitted by law, private sale and, in lieu of actual payment of such purchase price, may set off the amount of such price against the Secured Obligations. The Agent may proceed in any sequence in enforcing its rights and remedies against some or all of the Collateral pursuant to this Agreement.

(b) The Company hereby waives any law or principal of equity that requires or would permit the Company or any creditor or representative thereof to demand marshaling or

(i) the administration of this Agreement (other than in the ordinary course), (ii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Collateral, (iii) the exercise or enforcement of any of the rights of the Agent hereunder, or (iv) the failure by the Company to perform or observe any of the provisions hereof.

(c) The Company's obligations under this **Section 11** shall constitute Secured Obligations.

12. Proceeds from Disposition of Collateral. The proceeds of any sale, disposition or other realization upon all or any part of the Collateral shall be applied by the Agent first, to the Agent and the Lenders in respect of the Company's indemnification liabilities pursuant to **Section 11** hereof; second, to the unreimbursed expenses of the Agent and the Lenders; third, to then due interest on the Secured Obligations accrued and unpaid prior to the date such payment is received by the Agent; fourth, to reduce the principal balance of the Secured Obligations; fifth, to an account that the Agent may establish in its name and under its control, to be held as Cash Collateral until all of the Secured Obligations have been paid and satisfied in full; and sixth, any excess, after the Secured Obligations have been paid and satisfied in full, to the parties legally entitled thereto or to the Company. The Company shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay the Secured Obligations. The Company shall be liable for any reasonable attorneys' fees or other professional fees and expenses incurred by the Agent to collect such deficiency.

13. Grant of License to Use Patent and Trademark Collateral. For the purpose of enabling the Agent to exercise their rights and remedies under this Agreement, the Company hereby grants to the Agent for its benefit and benefit of the Lenders to secure the Secured Obligations, an irrevocable, non-exclusive license (exercisable upon the occurrence and during the continuation of an Event of Default, and without payment of royalty or other compensation to the Company) to use, license or sublicense any Patent, Trademark, trade secret, or copyright constituting Collateral, now owned or hereafter acquired by the Company, wherever the same may be located, and including in such license reasonable access to all media in which any of the licensed items may be recorded or stored, and to all computer and automatic machinery software and programs used for the compilation or printout thereof. Without limiting the generality of the foregoing, the Company hereby agrees that the Agent for its benefit and the benefit of the Lenders shall have the right to use all computer software, data, information, compilations, and other intellectual property or proprietary information of any kind or nature in any way related to the business or financial affairs of the Company in respect of the Collateral (including

the Company's interest in Affiliates) and to use the names, logos, and other means of identification of the Company in respect of the Collateral, all without charge, royalty or other obligation to the Company.

14. Communication with Obligors. The Company hereby authorizes the Agent for its benefit and benefit of the Lenders and its respective representatives, upon the occurrence and during the continuation of any Event of Default, to (i) communicate in its own name with any party to any contract or other agreement with regard to the assignment of the right, title and interest of the Company in and under such agreements, which constitute Collateral, and other matters relating thereto and (ii) execute, in connection with the sale provided for under this Agreement, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral.

15. Termination; Release of Liens. When all of the Secured Obligations shall have been paid and satisfied in full, [and the Guaranty has terminated] and all obligations of the Agent for its benefit and benefit of the Lenders thereunder have been paid and satisfied in full, this Agreement and the Liens created hereby shall terminate and the Lenders shall release their Liens on the Collateral, notwithstanding **Sections 11 and 16** herein; provided, however, that should the Company incur, after the Termination Date, Secured Obligations under **Sections 11 and 16** herein, the Company shall grant to the Agent for its benefit and benefit of the Lenders a Lien on the Collateral to secure such Secured Obligations.

16. Revival of Secured Obligations. If the Agent receives any payment of the Secured Obligations, in whole or in part, from any source, and if any portion of any such payment or any portion of the Agent's interest in any Collateral is declared invalid, set aside, disgorged, returned, refunded, or avoided, or is subject to any setoff, recoupment, or counterclaim, due to any cause of action asserted by the Company or the Company's creditors or trustee in bankruptcy, including but not limited to any setoff, recoupment, or counterclaim for preference, fraudulent conveyance, breach of contract, or tort, then to the extent of that portion of any such payment or the Agent's interest in the Collateral, the Secured Obligations shall be revived and continued in effect without reduction or discharge for that portion of any such payment or portion of the Collateral. The entry of any final judgment or order by a court of competent jurisdiction against the Agent or any Lender or the Agent or any Lender's good faith settlement with any party (including a determination to comply with a demand made by any party) which has the effect of invalidating or setting aside any interest in the Collateral, or requiring the Lenders to refund, disgorge, restore or return any such payment or any of the Collateral shall be binding on the Company.

17. General Provisions

17.1 Notices. All notices, requests and other communications to any party hereunder shall be in writing (including bank wire, telex, facsimile transmission or similar writing) and shall be given to such party at its address, facsimile number or telex number set forth on **Schedule 2** attached hereto or such other address, facsimile number or telex number as such party may hereafter specify for the purpose by notice to the Agent, each Lender and the Company. Each such notice, request or other communication shall be effective (i) if given by telex, when such telex is transmitted to the telex number specified in this section and the appropriate answer back is received, (ii) if given by facsimile transmission, when transmitted to the facsimile number specified in this section and confirmation of receipt is received, (iii) if given by mail, seventy-two (72) hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid or (iv) if given by any other means, when delivered at the address specified in this section.

17.2 Successors and Assigns. This Agreement shall be binding on the Company, the Company's successors and assigns, and inure to the benefit of the Agent and the Lenders and their respective successors and assigns. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Lenders.

17.3 Entire Agreement. This execution of this Agreement supersedes all the negotiations or stipulations concerning the subject matter hereof which preceded or accompanied the execution and delivery of this Agreement. This Agreement is intended by the parties hereto to be a complete and exclusive statement of the terms and conditions hereof.

17.4 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO THE CONFLICTS OR CHOICE OF LAW PRINCIPLES THEREOF.

17.5 CONSENT TO JURISDICTION. THE COMPANY HEREBY IRREVOCABLY CONSENTS TO THE PERSONAL JURISDICTION OF COURTS LOCATED IN THE DISTRICT OF COLUMBIA, AND THE FEDERAL COURTS LOCATED THEREIN, IN ANY ACTION, CLAIM OR OTHER PROCEEDING ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. THE COMPANY HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF A SUMMONS AND COMPLAINT AND OTHER PROCESS IN ANY ACTION, CLAIM OR PROCEEDING BROUGHT BY THE LENDERS IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS, ON BEHALF OF THEMSELVES AND THEIR PROPERTY, IN THE MANNER SPECIFIED IN **SECTION 17.1** (PROVIDED, TELECOPY NOTICES MAY NOT BE USED FOR

THIS PURPOSE). NOTHING IN THIS **SECTION 17.5** SHALL AFFECT THE RIGHT OF THE AGENT TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF THE AGENT TO BRING ANY ACTION OR PROCEEDING AGAINST THE COMPANY OR ITS PROPERTIES IN THE COURTS OF ANY OTHER JURISDICTIONS.

17.6 WAIVER OF JURY TRIAL. THE AGENT, EACH LENDER AND THE COMPANY EACH HEREBY IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION, CLAIM OR OTHER PROCEEDING ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS.

17.7 Cumulative Remedies. All rights and remedies provided in and contemplated by this Agreement are cumulative and not exclusive of any right or remedy otherwise provided herein, therein, at law or in equity.

17.8 Severability. If for any reason any provision or provisions hereof are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

17.9 Section Titles. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

17.10 Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be an original, but all of which shall constitute one and the same agreement. This Agreement shall become effective when each Lender shall have received all original executed counterparts.

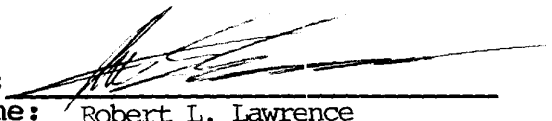
17.11 Further Assurances. The Company agrees, upon the written request of the Agent, to execute and deliver to the Agent, from time to time, any additional instruments or documents reasonably considered necessary by the Agent to cause this Agreement and the Secured Obligations to be, become, or remain valid and effective, and to cause the Agent's security interest in the Collateral to be, become, or remain duly perfected.

17.12 Waivers. The Agent shall not by any act, delay, omission or otherwise be deemed to have waived any of their respective rights or remedies hereunder, and no waiver by the Agent shall be valid unless in writing, signed by the Agent, and then only to the extent therein set forth. A waiver by the Agent of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which the Agent would otherwise have had on any future occasion.

17.13 The Agent's Professional Fees and Expenses. If at any time or times whether prior or subsequent to the commencement of a bankruptcy case and whether or not an Event of Default or other breach or default exists or has occurred under this Agreement, the Agent employ legal counsel or other professionals (including, but not limited to, attorneys, accountants, consultants, inspectors, engineers, environmental experts, title insurers, appraisers, brokers or auctioneers) for advice or other representation or incurs other costs and expenses in connection with (i) the negotiation or preparation of this Agreement, or any other document related thereto or any amendments, modifications, extensions, or renewals thereto or thereof; (ii) any litigation, contest, dispute, suit, case, proceeding or action (whether instituted by the Agent, the Company or any other person), in any way relating to this Agreement, the Secured Obligations, the Collateral or the affairs of the Company; (iii) any litigation, contested matter, adversary proceeding, dispute, suit, case, proceeding or action and any appeal or review thereof in connection with a case commenced by or against the Company, under the federal bankruptcy or reorganization laws or any other applicable federal or state bankruptcy, insolvency, debtor relief, reorganization or similar law; (iv) the monitoring, appraisal, inspection, verification, protection, notification, collection, sale, liquidation or other disposition of the Collateral, and (v) in taking any action establishing, preserving, or enforcing any right or remedy permitted hereunder, then in any such event, the Company shall pay to and reimburse the Agent for the reasonable professional fees, including reasonable attorneys' fees, arising from such services and all expenses, costs, charges and other fees incurred by or on behalf of such party in connection therewith, and the same shall constitute the Secured Obligations of the Company to the Agent secured by the Collateral.

IN WITNESS WHEREOF, this Agreement is executed effective as of the day and year first above written.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: 
Name: Robert L. Lawrence
Title: Senior Vice President

AMERICAN PASSENGER RAIL CAR COMPANY, L.L.C.

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, this Agreement is executed effective as of the day and year first above written.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: _____
Name: Robert L. Lawrence
Title: Senior Vice President

AMERICAN PASSENGER RAIL CAR COMPANY, L.L.C.

By: James C. Gerber
Name: JAMES C. GERBER
Title: CEO

EXHIBIT A

DESCRIPTION OF COLLATERAL

All of the Company's right, title and interest in and to the following, whether now owned or hereafter acquire.

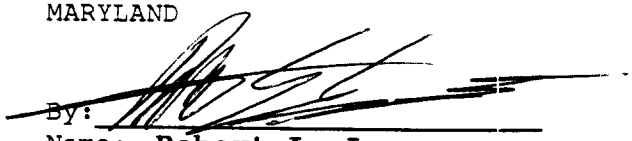
A. The account of the Company with Key Bank of Idaho, account number 124012027957 (the "Operating Account");

B. All finished railroad cars and unfinished railroad cars constructed, under construction, or to be constructed under the Commercial Contract, all component parts thereof and all inventory therefor; and

C. To the extent not otherwise included, all proceeds of the foregoing, in any form (including, without limitation, any insurance proceeds, and all claims by the Company against third parties for loss or damage to, or destruction of, or otherwise relating to any or all of the foregoing) and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing.

IN WITNESS WHEREOF, this Agreement is executed effective as of the day and year first above written.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



By: _____
Name: Robert L. Lawrence
Title: Senior Vice President

AMERICAN PASSENGER RAIL CAR COMPANY, L.L.C.

By: _____
Name: _____
Title: _____

State of Maryland

County of Howard ; ss:

On this 22nd day of April, 1996 before me personally appeared Robert L. Lawrence, to me personally known, who being by me duly sworn, says that he is the Senior Vice President of Fidelity and Deposit Company of Maryland, that the seal 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.

Signature of Notary Public

My commission expires Jan. 10, 1999.

IN WITNESS WHEREOF, this Agreement is executed effective as of the day and year first above written.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By: _____
Name: _____
Title: _____

AMERICAN PASSENGER RAIL CAR COMPANY, L.L.C.

By: James C. Gerber
Name: JAMES C. GERBER
Title: CEO

State of Illinois

County of Cook ; ss:

On this 22nd day of April, 1996 before me personally appeared James Gerber, to me personally known, who being by me duly sworn, says that he is the Chief Financial Officer of American Passenger Rail Car Company, L.L.C., that the seal 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.

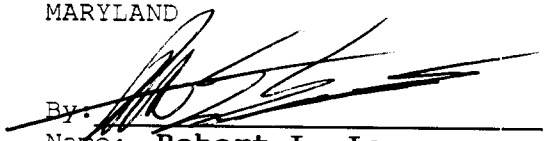
Adele Bufano
Signature of Notary Public

My commission expires 1-3-99.

"OFFICIAL SEAL"
ADELE BUFANO
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 1/3/99

IN WITNESS WHEREOF, this Agreement is executed effective as of the day and year first above written.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



By: _____
Name: Robert L. Lawrence
Title: Senior Vice President

AMERICAN PASSENGER RAIL CAR COMPANY, L.L.C.

By: _____
Name: _____
Title: _____

State of Maryland

County of **Howard**; ss:_____

On this 22nd day of April, 1996 before me personally appeared Robert L. Lawrence, to me personally known, who being by me duly sworn, says that he is the Senior Vice President of Fidelity and Deposit Company of Maryland, that the seal 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.

Signature of Notary Public

My commission expires **Jan. 10, 1999**.

IN WITNESS WHEREOF, this Agreement is executed effective as of the day and year first above written.

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By:_____
Name:_____
Title:_____

AMERICAN PASSENGER RAIL CAR COMPANY, L.L.C.

By: James C. Gerber
Name: JAMES C. GERBER
Title: CFO

State of Illinois

County of Cook ; ss:_____

On this 22nd day of April, 1996 before me personally appeared James Gerber, to me personally known, who being by me duly sworn, says that he is the Chief Financial Officer of American Passenger Rail Car Company, L.L.C., that the seal 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.

Adele Bufano
Signature of Notary Public

My commission expires 1-3-99.

"OFFICIAL SEAL"
ADELE BUFANO
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 1/3/99