

EQUIPMENT LEASE

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THIS EQUIPMENT LEASE, made the 29 day of October, 1971, between DELAWARE FREIGHT CAR CORP., a New York corporation (hereinafter called the "Lessor"), and YANKEETOWN DOCK CORPORATION, an Indiana corporation (hereinafter called the "Lessee");

W I T N E S S E T H:

WHEREAS, the Lessor has agreed to purchase 100 100-ton, all steel, rotary dump coal gondola cars for purposes of this Lease; and

WHEREAS, the Lessee desires to lease the same from the Lessor upon the terms and conditions herein stated, which terms and conditions are acceptable to Lessor;

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 said 100 100-ton, all steel, rotary dump coal gondola cars to the Lessee upon the following terms and conditions:

1. Delivery and Acceptance of Equipment.

The cars which are the subject of this Lease consist of 100 100-ton, all steel, rotary dump coal gondola cars manufactured by the Ortner Freight Car Company of Cincinnati, Ohio. Such gondola cars are hereinafter referred to as the "Equipment"

and they shall be constructed in accordance with the specifications set forth in Schedule "A" and assigned the identifying numbers shown on said schedule.

The Lessor will cause the Equipment to be delivered to the Lessee at Boonville, Indiana and Lessee shall pay the cost of delivering the Equipment from the manufacturing shops of the Ortner Freight Car Company in Covington, Kentucky to the Lessee's tracks. Prior to such delivery, the Lessee will cause an authorized representative of the Lessee to inspect the same at the manufacturing shops of the Ortner Freight Car Company in Covington, Kentucky and if such Equipment is found to conform to the specifications therefor, to execute and deliver to the Lessor a Certificate of Acceptance (hereinafter called "Certificate of Acceptance") substantially in the form attached hereto as Schedule "B". On the delivery of such Equipment the Lessee will cause an authorized representative of the Lessee to execute and deliver to the Lessor a Certificate of Delivery (hereinafter called "Certificate of Delivery") substantially in the form of that attached hereto as Schedule "C", whereupon such Equipment shall be deemed to have been accepted by and delivered to the Lessee and shall be subject thereafter to all of the terms and conditions of this Lease.

2. Rentals and Payment Dates.

The Lessee agrees to pay the Lessor for the use of the Equipment, during the term of this Lease, the amount of \$146.00 per car per month from the effective date of this Lease and throughout the term hereof. Such rent shall be paid in advance on the first day of each month for that month.

All payments provided for in this Lease to be made to the Lessor shall be made to the Lessor at 120 Delaware Avenue, Buffalo, New York, or at such other place as the Lessor or its assigns shall specify in writing.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise nor except as otherwise expressly provided herein, shall this Lease terminate, or the obligations of the Lessee be otherwise affected by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, 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 unless the obligation to pay the same shall be terminated pursuant to paragraph "12" hereof, or until, pursuant to paragraph "11" hereof, the Equipment is placed and ready for delivery to the Lessor on the Lessee's lines, or is stored for the Lessor on the Lessee's lines or leaves the

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Lessee's lines for off-line delivery to the Lessor.

Notwithstanding the foregoing provisions of this paragraph "2", the Lessor warrants that the Equipment at delivery will be fit for its intended use. The Lessor will assign to the Lessee all warranties received from the Ortner Freight Car Company with respect to the equipment.

Prior to the effective date of this lease, as defined in paragraph "3" hereof, the Lessee shall pay to the Lessor rental for the Equipment delivered to the Lessee at the rate of \$4.87 per car per day.

3. Effective Date and Term of this Lease.

The effective date of this Lease shall be the first day of the first month following the month in which the last item of Equipment shall have been delivered to the Lessee, and shall continue for a period of fifteen (15) years from said date.

4. Title to the Equipment.

The Lessee will cause each item of Equipment to be kept numbered with its road number as set forth in said Schedule "A" and will keep and maintain, plainly, distinctly, permanently and conspicuously upon each side of each item of Equipment in letters not less than one inch in height as follows:

"Property of Delaware Freight Car Corp.
Owner and Lessor
Subject to a security interest recorded
with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law or by the holder of any such

security interest in order to protect the title of the Lessor to such item of Equipment, its rights under this Lease and the rights of any holder of any such security interest or of any assignee under paragraph "15" hereof. The Lessee will not place any such item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any item of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification or the right of the Lessee to use the Equipment under this Lease.

The Lessor shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and the possession and use thereof by the Lessee.

5. Indemnification.

From and after the several dates of delivery of the Equipment to the Lessee until the termination of this Lease, the possession, use, operation and maintenance of the Equipment shall be at the sole risk and expense of the Lessee. The Lessee shall defend, indemnify and save harmless the Lessor and any assignee under paragraph "15" hereof from and against (a) any and all loss of or damage to the Equipment, usual wear and tear excepted, and (b) any claim, cause of action, damages or liability (including counsel fees and expenses in connection therewith) which the Lessor or any such assignee may incur in any manner by reason of its ownership of, which may arise in any manner out of, or as a result of, the use or operation of any item of Equipment, or by reason of its condition (whether defects are latent or patent) during the term of this Lease, regardless of whether such claims are made during or subsequent to termination. It is agreed that Lessor will be named as an additional insured under Lessee's public liability insurance policy.

6. Rules, Laws and Regulations.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including the rules of the Department of Transportation, and the Interchange Rules or supplements thereto, of the Mechanical Division, Association of American Railroads) from time to time in effect with respect to the use, maintenance and operation of each item of Equipment subject to this Lease. In case any equipment or appliance on any item of

Equipment shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, replacements and additions at its own cost and expense. However, in the event the cost of complying with the terms of this provision is in excess of the remaining rental payments to become due hereunder, the Lessee may elect not to change, replace, make additions to, or alter the Equipment and keep the Equipment idle and remit to the Lessor the remaining rental payments over the balance of the term of this Lease Agreement as the same become due. Lessor agrees that the Equipment, when initially delivered to the Lessee, will comply with all existing laws, regulations, requirements and rules applicable thereto.

7. Use and Maintenance of Equipment.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee agrees that the Equipment will be used solely on its own lines and upon the lines of railroads in the continental United States and the Dominion of Canada in the usual interchange of traffic; provided, however, that any use in Canada shall be incidental and temporary. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted. The Lessee shall not modify any item of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any item of Equipment shall be considered accessions to such item of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

8. Liens on the Equipment.

The Lessee shall pay or satisfy and discharge any and all claims against, through, or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this paragraph "8" shall survive termination of the Lease.

9. Filing; Payment of Fees and Taxes.

Prior to the effective date of this Lease, the Lessee will, at its sole expense, cause this Lease to be duly filed, registered or recorded in conformity with Section 20c of the Interstate Commerce Act and in such other places as the Lessor may reasonably request for the protection of its title and will furnish the Lessor proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to the Equipment to the satisfaction of the Lessor's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof

of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, registering and recording of any such instruments or incident to the taking of such action. The costs, charges and expenses of re-filing, re-registering and re-recording, if necessary, shall be borne by Lessor.

The Lessee, or the Lessor at the Lessee's expense, shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of Equipment, and other taxes (excluding any tax measured by the Lessor's net income and any gross receipts or gross income taxes in substitution for or by way of relief from the payment of taxes measured by such net income, provided that the Lessee agrees to pay that portion of any such tax on or measured by rents and payable hereunder or the net income therefrom which is in direct substitution for, and which relieves the Lessee from, a tax on the Equipment which the Lessee would otherwise be obligated to pay under the terms of this paragraph "9"), together with any penalties or interest thereon, imposed by any state, federal or local government upon the Equipment and whether or not the same shall be assessed against or in the name of Lessor; provided, however, that the Lessee shall not be required to pay or discharge any such tax or assessment (i) so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest

of the Lessor to the Equipment, however, the Lessee shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge, or (ii) as to assessments against or in the name of anyone other than the Lessee, until twenty (20) days after written notice thereof shall have been given to the Lessee.

10. Payment for Casualty Occurrence.

In the event that any item of Equipment shall be or become lost, stolen, destroyed, or irreparably damaged (within the meaning of the Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads) after the delivery to the Lessee of such item of Equipment from any cause whatsoever, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease (and such occurrence, except for any requisition which by its terms does not exceed the remaining term of this Lease, being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly (after it has knowledge of such Casualty Occurrence) and fully inform the Lessor in regard thereto, and shall thereupon pay to the Lessor the Casualty Value (as herein defined) of the items of Equipment having suffered a Casualty Occurrence.

Upon making (but not until) such payment in respect of any item or items of Equipment no further rental shall be payable or accrue for such item or items of Equipment (but Lessee shall continue to pay rental for all other items of

the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

11. Annual Reports.

On or before September 1 in each year, commencing with the year 1972, the Lessee will furnish to the Lessor and any assignee of Lessor an accurate statement, as of the preceding July 1, (a) showing the amount, description and numbers of the items of Equipment then leased hereunder, the amount, description and numbers of all items of Equipment that may have suffered a Casualty Occurrence during the preceding twelve (12) months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition of repair of the Equipment as Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by paragraph "4" hereof shall have been preserved or replaced.

The Lessor or its assigns shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect

thereto, at such times as shall be reasonably necessary to confirm to the Lessor or its assigns, the existence and proper maintenance thereof during the continuance of this Lease.

12. Return of Equipment upon Expiration of Term.

Upon the expiration of the term of this Lease with respect to any item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such item of Equipment to the Lessor upon such storage tracks of the Lessee as the Lessor may designate, or in the absence of such designation as the Lessee may select, and transport the same to any reasonable place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than thirty (30) days written notice to Lessee. All movement and storage of such item is 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 any such item, to inspect the same at their own risk. The assembling, delivery, storage and transporting of the Equipment 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 to so assemble, deliver, store and transport the Equipment.

13. Default. If, during the continuance of this Lease, one or more of the following events ("Events of Default") shall occur:

A. Default shall be made in the payment of any part of the rental provided in paragraph "2" hereof and such default shall continue for ten (10) days after written notice to the Lessee;

B. The Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Equipment, or any portion thereof, and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Equipment within thirty (30) days after written notice from the Lessor to the Lessee demanding such cancellation and recovery of possession;

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 and such default shall continue for forty-five (45) days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied;

D. A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by

or against the Lessee, and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee, or trustees appointed in such proceedings or otherwise given a status comparable to the obligations incurred by such a trustee, or trustees within thirty (30) days after such appointment, if any, or sixty (60) days after such petition shall have been filed, whichever shall be earlier; or

E. Any other proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and all the obligations of the Lessee, under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee, or trustees, or receiver, or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings or otherwise given a status comparable to obligations incurred by such a trustee, or trustees, or receiver, or receivers, within thirty (30) days after

such appointment, if any, or sixty (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 right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose 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 a fraction of which the numerator is such

accrued 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 (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each item of Equipment, which represents the excess of the present value, at the time of such termination, of all rentals for such item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then-present value of the then-fair rental value of such item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the item during such period, such present value to be computed in each case on a basis of a 3% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, 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 any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any off-set against the rental payments due hereunder, and agrees to make the rental payments regardless of any off-set or claim which may be asserted by the Lessee or on its behalf in connection with the lease of the Equipment.

The failure of the Lessor to exercise the rights granted it hereunder upon any 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.

14. Return of Equipment Upon Default.

If the Lessor shall terminate this Lease pursuant to paragraph "12" hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

A. Forthwith place such Equipment in such reasonable storage place on the Lessee's lines of railroad as the Lessor may designate, or in the absence of such designation, as the Lessee may select;

B. Permit the Lessor to store such Equipment in such reasonable storage place on the Lessee's lines of railroad for a period not exceeding one hundred eighty (180) days at the risk of the Lessee; and

C. Transport the Equipment, at any time within such one hundred eighty (180) day period, to any place on the lines of railroad operated by the Lessee or to any connecting carrier for shipment, all as the Lessor may reasonably direct upon not less than thirty (30) days written notice to the Lessee.

The assembling, delivery, storage and transporting of the Equipment 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 Equipment.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this paragraph "14", the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any items of Equipment to Lessor, to demand and take possession of such item in the name and on behalf of Lessee from whosoever shall be at the time in possession of such item.

15. Assignments by Lessor.

This Lease shall be assignable in whole or in part by Lessor without the consent of Lessee, but Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment the rental and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee. No assignee of the Lessor shall be bound by or obligated to perform or see to the performance of any duty, covenant, condition or warranty (express or implied) made by Lessor or required to be observed or performed by Lessor under any of the terms hereof, but, on the contrary, the Lessee by its execution hereof acknowledges and agrees that notwithstanding any such assignment each and all of such duties, covenants, conditions, warranties shall survive such assignment and shall be and remain the sole liability of Lessor and of every person, firm or corporation succeeding (by merger, consolidation, purchase of assets or otherwise) to all or substantially all of the business, assets and good will of the Lessor. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim, or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than

from a wrongful act of the assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the assignee, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor.

16. Assignments by Lessee; Use and Possession.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, sublease, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the other provisions of this paragraph "16".

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly) or by any corporation a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessee, or upon lines of railroad over which the Lessee or any such corporation has trackage or other operating rights or over which equipment of the Lessee is regularly operated pursuant to contract and also to permit the use of the Equipment upon connecting and other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. The Lessee may receive and retain compensation for such use from other railroads so using any of the items of Equipment. No action by the Lessee permitted under the foregoing provisions of this paragraph "16" shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

Nothing in this paragraph "16" shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation (which shall have duly

assumed the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety.

17. Opinion of Counsel.

Concurrently with the delivery and acceptance of the first item of Equipment hereunder, the Lessee will deliver to the Lessor the written opinion of counsel for the Lessee addressed to the Lessor and to the assignee, in scope and substance satisfactory to the Lessor, to the effect that:

A. The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Indiana;

B. The Lessee has the corporate or other power and authority to own its property and carry on its business as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

C. This Lease has been duly authorized, executed and delivered by the Lessee and constitutes the valid, legal and binding agreements of the Lessee enforceable in accordance with its terms;

D. This Lease has been filed and recorded with the Interstate Commerce Commission pursuant to

Section 20c of the Interstate Commerce Act and no other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment in the United States of America;

E. No approval, consent or withholding of objection is required by Lessee from any public regulatory body with respect to the entering into or performance of this Lease;

F. The execution and delivery by the Lessee of the Lease do not violate any provisions of any law, any order of any court or governmental agency, the Charter or By-Laws of the Lessee, or any indenture, agreement, or other instrument to which Lessee is a party or by which it, or any of its property, is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement, or other instrument or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Lessee, except as contemplated and permitted hereby; and

G. As to any other matters which Lessor shall reasonably request.

18. Notices.

Any notice required or permitted to be given by either

party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, addressed as follows:

If to the Lessor: 120 Delaware Avenue
Buffalo, New York 14202

If to the Lessee: 105 South Meridian Street
Indianapolis, Indiana 46225

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

19. Execution in Counterparts.

This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterpart shall constitute but one and the same instrument.

20. Law Governing.

This Lease shall be construed in accordance with the laws of New York; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the day and year first above written.

DELAWARE FREIGHT CAR CORP.

(Corporate Seal)

Attest:

Arnold L. Hugin
out. Secretary

By

Julian L. L. Morrison
President LESSOR

(Corporate Seal)

Attest:

A. Lucius Hubbard
Assistant Secretary

YANKEETOWN DOCK CORPORATION

By

W. S. Sweeney Pres
LESSEE

STATE OF NEW YORK)
 : SS.
COUNTY OF ERIE)

On this 8 day of November, 1971, before me, personally appeared JULIAN L. S. MORRISON, to me personally known, who, being by me duly sworn, says that he is the President of DELAWARE FREIGHT CAR CORE, the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Samuel L. Shapiro
SAMUEL L. SHAPIRO
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES MARCH 31, 1975

STATE OF INDIANA)
 : SS.
COUNTY OF MARION)

On this 29TH day of October, 1971, before me, personally appeared R.C. Beebecker to me personally known, who, being by me duly sworn, says that he is the ~~PRESIDENT~~ of YANKEETOWN DOCK CORPORATION the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Gayle Cotton
GAYLE COTTON, NOTARY PUBLIC

My Commission Expires:
SEPT. 18, 1974

SPECIFICATIONS

100-TON ROTARY DUMP COAL GONDOLA CAR

DIMENSIONS:

Coupled length.....	48' 7-1/2"
Length over strikers.....	46' 0"
Length between truck centers.....	35' 1"
Length inside.....	44' 0"
Width inside.....	9' 8-1/2"
Width over side posts.....	10' 5-15/16"
Height inside.....	8' 5-7/8"
Height from rail to floor.....	3' 6-1/8"
Height extreme.....	12' 0"
Cubic Capacity - level full.....	3610 cu. ft.
Cubic Capacity with 10" average heap.....	3966 cu. ft.

GENERAL:

This specification describes a 100-ton capacity, high side gondola car as indicated on drawing EX-118-1 of all welded construction with rivets or Buckbolts at appropriate points. Cars will be designed for dumping coal when cars are individually uncoupled and positioned in rotary dumpers.

Cars will be built in the best most substantial and workmanlike manner and in accordance with the true intent and meaning of this specification, although all details required for the construction may not be specifically or individually covered in this specification.

Cars will be designed and constructed to meet the requirements as applicable of AAR Rules and Regulations and United States Department of Transportation Requirements currently in effect. Limiting dimensions of the cars will conform to AAR Plate "B" equipment diagram.

MATERIALS:

All rolled steel will be to ASTM Specification A-36 or applicable AAR Specifications or as noted. Where HTLA grades are indicated, COR-TEN or equal will be used where steel is in contact with the lading and TRI-TEN or equal will be used where the steel is not in contact with the lading.

CENTERSILLS:

Centersills will consist of two AAR Z-26 @ 41.2# HTLA sections extending from striker to striker. Centersill spreaders will be of 3/8" x 5" bar numbering 4 per car and located at each crossbearer and welded to crossbearer bottom cover plate.

BODY BOLSTER:

Body bolster will consist of 1/2" steel web plates numbering two (2) per corner, eight (8) per car, 1/2" x 38" HTLA top cover plate extending from side to side, 1/2" x 28" HTLA bottom cover plate extending from flange of centersill to side and 1/2" x 30" sole plate extending beneath centersill

SCHEDULE A

from side bearing to side bearing. Bolster end plates will be of 5/16" plate and side bearing braces will be of 1/2" pressed steel plate welded within bolster webs at each corner of car.

CROSSBEARERS:

Crossbearers will number four pairs per car and consist of 5/16" web plates, 1/2" x 4" top cover plate extending from side to side, 3/8" x 5" bottom cover plate extending from flange of centersill to side and 1/2" x 4" x 4'0" bottom sole plate extending beneath centersill. Crossbearer end plates will be of 5/16" plate.

CROSS TIES:

Cross ties will number five pairs per car and be of 6" x 4" beam (CBL 6) @ 12# extending from centersill to side. Crosstie end plates will be of 5/16" steel plate.

SIDE CONSTRUCTION:

Sides will be of 7/32" HTLA plate reinforced with 13 per side, 26 per car, 1/4" HTLA pressed side posts. Top side angle will be of 5" x 4 1/2" x 7/16" HTLA bulb angle extending from corner to corner. Side bottom angle will be of 4" x 3" x 7/16" HTLA angle extending from corner to corner.

SIDE BRACES:

Sides will be braced diagonally with 4" extra heavy steel pipe braces numbering two (2) per side, four (4) per car extending from floor at cross-bearer near centersill to a point on the side approximately 6" below the top chord.

END CONSTRUCTION:

Ends will be of Standard Railway Equipment Div. "Dreadnaught" corrugated design of 5/16" HTLA lower sheet and 1/4" HTLA upper sheet. Top end angle will be of 5" x 4 1/2" x 7/16" HTLA bulb angle extending from corner to corner. End bottom angle will be of 4" x 3" x 7/16" HTLA angle extending from corner to corner.

FLOOR CONSTRUCTION:

Floor sheets will be of 5/16" HTLA plate extending from end to end and from side to side.

BRAKE EQUIPMENT:

Cars will be equipped with latest ABD 10-12 Freight Car Brake System using 2" thick high friction composition brake shoes. Brake pipe will be of open hearth steel, extra heavy pipe meeting AAR requirements. Hand brakes will be of AAR approved 1966 vertical wheel type with 1966 Bell Crank.

TRUCKS:

Trucks will be of 6 1/2" x 12", 100-ton nominal capacity arranged for unit type brake beams, 3 11/16" travel springs and Barber S2C stabilizers. Truck side frames and bolsters will be cast in Grade B steel. Truck bolster center plate will be 14" diameter and will have both horizontal and vertical manganese steel wear liners applied in accordance with AAR requirements. AAR D-11 Specification M-116, 6 1/2" x 12" roller bearing axles will be provided with 36" diameter, two wear rim treated class BR rough or cast steel wheels. Trucks will be furnished with 6 1/2" x 12" Timken Roller Bearings, narrow jaw pedestal type roller bearing adapters and Stucki Double Roller type side bearings. Truck side frames at BR and AL corners will be provided with special clevises for attachment of the MDA hydraulic stabilizers.

HYDRAULIC STABILIZERS:

Cars will be equipped with MDA Model #2200 A, hydraulic stabilizers as manufactured by Railroad Dynamics Incorporated. Stabilizers will number two per car and units will extend vertically from side frame mounting clevis to mounting clevis applied to body bolster top cover plate within bolster webs.

DRAFT ARRANGEMENT:

Cars will be equipped with combined striker and front draft lug castings, combined bolster center brace and rear draft lug castings, Grade C centerplate castings, Cardwell Westinghouse Mark 50 (M-901E) draft gears, AAR BE 60BHT couplers, AAR BY40HT vertical yokes, C-1045 draft keys, AZEE draft key retainers and rotary bottom operating type uncoupling device.

PAINTING:

Underframe and exterior of sides and ends will be sandblasted clear of all loose mill scale and rust and given one coat of direct to metal freight car black paint. Cars will be stencilled in accordance with the minimum requirements of the AAR and United States Department of Transportation.

CERTIFICATE OF ACCEPTANCE
UNDER EQUIPMENT LEASE

To: DELAWARE FREIGHT CAR CORP.

I, a duly appointed inspector and authorized representative of YANKEETOWN DOCK CORPORATION ("Lessee"), do hereby certify that I have inspected, received and approved, on behalf of the Lessee and under the Equipment Lease dated October _____, 1971 between the Lessor and the Lessee, the following units of equipment ("Equipment"):

TYPE OF EQUIPMENT: 100-ton, all steel, rotary
dump coal gondola cars

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and conforms to the specifications applicable thereto, and there is plainly, distinctly, permanently and conspicuously marked in contrasting colors upon each side of each Unit of Equipment the following legend in letters not less than one inch (1") in height:

"Property of Delaware Freight Car Corp.
Owner and Lessor
Subject to a security interest
recorded with the I.C.C."

Inspector and Authorized Representative of YANKEETOWN DOCK CORPORATION

SCHEDULE B

CERTIFICATE OF DELIVERY
UNDER EQUIPMENT LEASE

To: DELAWARE FREIGHT CAR CORP.

I, a duly appointed authorized representative of YANKEETOWN DOCK CORPORATION ("Lessee"), do hereby certify that I have accepted delivery, on behalf of the Lessee and under the Equipment Lease dated as of October _____, 1971 between the Lessor and the Lessee, of the following units of equipment ("Equipment"):

TYPE OF EQUIPMENT

100-ton, all steel, rotary
dump coal gondola cars

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

Authorized Representative of
YANKEETOWN DOCK CORPORATION

SCHEDULE C