

LEASE OF PASSENGER CARS

11.6 1972-0 10

THIS AGREEMENT dated this 3<sup>rd</sup> day of July, 1972, between Southern Railway Company, a Virginia corporation, having a place of business at 920 15th Street, N. W., Washington, D. C. 20013 ("Southern"), and National Railroad Passenger Corporation, organized under the Rail Passenger Service Act of 1970 and the laws of the District of Columbia, having offices at 955 L'Enfant Plaza North, S. W., Washington, D. C. ("Amtrak").

In consideration of the mutual covenants herein set forth Southern and Amtrak agree as follows:

I. LEASE OF EQUIPMENT

1.1 For and in consideration of the covenants and payments hereinafter mentioned to be performed and made by Amtrak and upon the terms and considerations hereinafter stated, Southern hereby agrees to lease and let and does hereby lease and let to Amtrak for a term beginning with respect to each Car, as hereinafter defined, on delivery of such Car to Amtrak, such delivery to begin on or after the third day of July, 1972, with the term of this Agreement ending on the tenth day of January, 1973, the following items of passenger rolling stock (all of which are hereinafter referred to as "Cars"; each of which is a "Car").

| <u>Southern<br/>Car Number</u> | <u>Name</u>    | <u>Type</u> |
|--------------------------------|----------------|-------------|
| 2001                           | Altamaha River | Sleeper     |
| 2007                           | Otter River    | Sleeper     |
| 2009                           | Potomac River  | Sleeper     |
| 3404                           | Etowah River   | Sleeper     |

1.2 Delivery of the Cars by Southern to Amtrak and redelivery of the Cars by Amtrak to Southern, in the event the Cars are not destroyed or purchased by Amtrak, shall be made at Union Station, Washington, D. C.

II. RENTAL

2.1 Rent Payments For the use of each Car, Amtrak shall pay on the tenth of each month during the term of this Agreement to Southern for each Car the sum of Four Hundred Dollars (\$400.00) as Rental Payment for such Car per month in advance, beginning on July 3, 1972. Rental for a part of any month shall be prorated for such month, and upon termination of this Agreement Southern and Amtrak will make any necessary adjustment for any overpayment or underpayment of rental.

III. OWNERSHIP AND CONDITION OF CARS.

3.1 Ownership Subject to Section 3.2, Southern is and on the date of delivery of each Car to Amtrak will be the absolute owner of such Car, has and on such date will have good title thereto, and has and on such date will have sole legal right and corporate authorization to enter into this Agreement and to lease the same.

3.2 On the date of delivery of each Car to Amtrak each Car will be free from all mortgages, liens, other encumbrances, security interests, and contractual rights (such as, for example, under any debt instrument or lease, except the liens of the First Consolidated Mortgage of Southern to Central Trust Company of New York (now Manufacturers Hanover Trust Company), Trustee, dated October 2, 1894, and the First and General Mortgage of Southern to The Chase Manhattan Bank [now The Chase Manhattan Bank (National Association)], Trustee, dated as of June 1, 1963, and all rights of third parties of every kind and description (hereinafter called collectively "Adverse Rights").

3.3 Condition Each Car will be in suitable condition for interchange movement on delivery to Amtrak.

#### IV. OPERATION

4.1 Operation and Delay During the term or continuation of this lease, Amtrak may operate or cause to be operated the Cars in its rail passenger service and in other service, as it directs. Southern shall not be liable to Amtrak for any delays or loss resulting from the mechanical failure of any Car while such Car is being operated by or for Amtrak.

4.2 Maintenance All Cars leased hereunder shall be maintained by or at the expense of Amtrak.

4.3 Alterations Amtrak will not make any changes or alterations affecting the structure of a Car without the prior consent of Southern.

4.4 Indemnity Amtrak shall indemnify and save harmless Southern for all loss, cost, expense and liability for injury to or death of persons or damage to or destruction of property (other than the Cars leased hereby), resulting from the use by Amtrak of any Car leased hereby between the time of the delivery of such Car to Amtrak and redelivery of such Car to Southern pursuant to the terms of this Agreement, including liability arising out of the operation, maintenance, movement or condition of such Car, or out of any occurrence, whether or not negligence on the part of Southern may have caused or contributed to such injury, death, damage or destruction.

V. RETURN OF CARS TO SOUTHERN

5.1 Restoration to Prior Condition Upon termination of the lease of any Car, unless such Car has been damaged beyond repair and payment has been made therefor to Southern (All as provided in Section 5.2), Amtrak shall reimburse Southern for the cost of any repairs or alterations to such Car necessary to place such Car in the condition it was in on delivery hereunder to Amtrak, reasonable wear and tear excepted. Amtrak will have the right to, and at Southern's election, Amtrak shall remove from a Car any additions which it has made to such Car. Amtrak shall upon termination of this lease, return the Cars leased hereby (other than

those Cars damaged beyond repair for which payment has been made to Southern) to Southern, free from any Adverse Rights created by or resulting from acts of Amtrak during the term of this lease. Notwithstanding the termination date for this Agreement, if any Car shall not have been paid for or returned to Southern by such date under the terms hereof, such terms shall continue to apply to such Car until so paid for or returned.

5.2 Damage Beyond Repair In the event any Car shall be destroyed or damaged beyond repair while under lease to Amtrak hereunder, Amtrak shall pay to Southern Fourteen Thousand Five Hundred Dollars (\$14,500.00) for each Car so destroyed or damaged, less the amount of rental theretofore paid for said Car. A Car shall be deemed "damaged beyond repair" if the estimated cost of repairs (made by a railroad passenger rolling stock repair shop under contract to Amtrak or other estimator acceptable to Amtrak) exceeds the Purchase Price stated for such Car in Section 6.3 less the amount of rental theretofore paid for said Car. When and if Amtrak shall make full payment to Southern pursuant to the first sentence of this subparagraph, the lease of the Car in respect to which said payment is made shall terminate, and title to such Car shall pass to Amtrak, and Amtrak shall be entitled to the salvage thereof, free of any Adverse Rights other than those created by or resulting from acts of

Amtrak.

5.3 Default In the event Amtrak defaults in the performance and observance of any of the covenants and conditions to be performed and observed by Amtrak hereunder with respect to any Car, Southern may, at its option, forthwith upon the happening of such default, terminate the lease of such Car and repossess it. Waiver by Southern of any breach of this Agreement shall not impair Southern's rights with respect to any subsequent breach hereof. The exercising by Southern of the right of repossession hereunder shall not affect Southern's rights or remedies hereunder or at law or otherwise.

VI. OPTION TO BUY

6.1 Amtrak on 14 days prior written notice to Southern may at any time during or at the end of the term of this lease purchase from Southern any Car. In such case this Agreement shall continue in effect until payment is made pursuant to Section 6.3.

6.2 Prior Sale Southern shall not sell any Car to any party other than Amtrak during the term of this Lease.

6.3 Purchase Price The purchase price for any Car shall be Fourteen Thousand Five Hundred Dollars (\$14,500.00), less the amount of rental paid for said Car to the time at which Amtrak exercises its option to purchase.

6.4 Title Upon the exercise of Amtrak's option to purchase any Car, and payment to Southern of the purchase price, as set out above, Southern shall convey to Amtrak good title thereto

free from all Adverse Rights, including the mortgages of Southern set forth in Section 3.2, shall deliver to Amtrak a certificate executed on behalf of Southern by a Vice President, certifying to the best of his actual knowledge and belief after diligent inquiry, to the effect stated above and an opinion from the Vice President-Law or the Assistant Vice President-General Counsel of Southern (or other counsel acceptable to Amtrak in the exercise of its reasonable judgment) covering each Car and in substance and form satisfactory to Amtrak to the same effect, and that the Bill of Sale to be delivered to Amtrak pursuant to this Agreement is valid and effective to, and accordingly does, confirm in Amtrak absolute ownership of such Car free from all Adverse Rights. Upon exercise of this option with regard to any Car and such payment, Southern shall deliver to Amtrak a Bill of Sale and Acknowledgment of Receipt in substance and form satisfactory to Amtrak.

VII. GENERAL

7.1 Marks of Identification The Cars leased hereunder shall be delivered with Southern's usual marks of identification including car number, in place and unaltered. Amtrak shall be entitled to operate the Cars without removing Southern's marks of identification. In the event Amtrak elects to purchase any Car as provided herein, it shall, promptly upon

such purchase, remove Southern's marks of identification from such Car.

7.2 Assignability Amtrak and Southern shall each be entitled to assign their respective rights (but not their obligations) under this Agreement.

7.3 Certain Taxes

(a) Amtrak shall promptly pay to Southern upon its written request any sales, use or other similar tax (including interest and penalties) ultimately assessed against and paid by Southern in connection with this lease if the amount and validity of such assessment and payment are certified to Amtrak by the Vice President-Finance or the Treasurer and the Vice President-Law or the Assistant Vice President-General Counsel (or other counsel acceptable to Amtrak in the exercise of reasonable judgment) of Southern. Southern shall promptly notify Amtrak when any such tax is asserted or assessed against Southern whether it intends to contest the amount or validity of such tax. If so, Amtrak may carry on such contest and shall pay all costs and expenses which it incurs therein.

(b) Amtrak agrees to return the Cars for tax purposes and to promptly pay all taxes (other than income taxes imposed upon Southern) licenses and assessments on or in respect of the Cars, including but not limited to, any taxes which may

be imposed upon or in respect of the Cars by reason of or in connection with Amtrak's possession or use of the Cars under this Agreement. Southern will reimburse Amtrak for and will indemnify and hold Amtrak harmless against all taxes of any kind and all other assessments against Amtrak (including interest and penalties) with respect to all or any part of the Cars directly or indirectly resulting from Southern's ownership, possession, or use thereof prior to the term of this lease.

7.4 Notices Any notice or other communication pursuant to this Agreement shall be in writing and shall be deemed to have been duly given when actually received by the other party at:

(a) If to Amtrak:

National Railroad Passenger Corporation  
955 L'Enfant Plaza North, S. W.  
Washington, D. C. 20024

Attention: Contract Administration Manager

(b) If to Southern:

Southern Railway Company  
Post Office Box 1808  
Washington, D. C. 20013

Attention: Assistant Vice President, Purchasing  
and Materials Management Department

7.5 Certain Expenses Except as provided in paragraphs 4.4 and 7.3, neither Amtrak nor Southern shall bear any expense

incurred by the other in connection with the negotiation, execution or implementation of this Agreement.

7.6 Interpretation

(a) This Agreement constitutes the entire agreement of the parties on the subject of the leasing of the Cars described in paragraph I and supersedes all prior agreements, whether written or oral, between the parties relating to such leasing of the Cars to Amtrak.

(b) The division of this Agreement into sections is for convenience only and should not affect the construction hereof.

(c) This Agreement shall be construed in accordance with and governed by the laws of the District of Columbia.

7.7 Termination Amtrak or Southern may upon 30 days written notice to the other terminate the lease of any Car, except that such notice will not be given until at least two months of the term of this lease have expired.

7.8 Representation Amtrak has, and during the term of this Agreement will have all necessary legal and corporate authority to enter into this Agreement and perform all of its obligations hereunder.

IN WITNESS WHEREOF, Southern and Amtrak have caused this Agreement to be duly executed by their respective officers thereunto duly authorized all on the day and year first above mentioned.

SOUTHERN RAILWAY COMPANY,

By. *K.A. Fletcher*  
Vice President.

ATTEST:

*M.H. Davenport*  
Assistant Secretary.

NATIONAL RAILROAD PASSENGER CORPORATION,

By. *F.H. King*  
Title:

ATTEST:

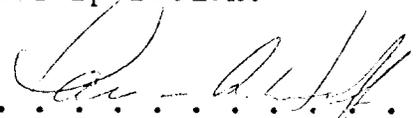
*A.D. McWhorter*  
Secretary

DISTRICT OF COLUMBIA.

On this 22<sup>nd</sup> day of July, 1972, before me personally appeared

K. A. Stoecker,

to me personally known, who, being by me duly sworn, says that he is a Vice President of SOUTHERN RAILWAY COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Lawrence A. Huff  
Notary Public  
in and for the  
District of Columbia

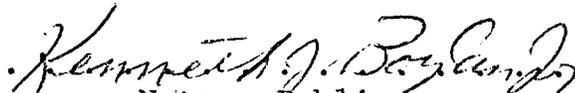
My commission expires June 30, 1977.

DISTRICT OF COLUMBIA.

On this 9<sup>th</sup> day of July, 1972, before me personally appeared

L. S. King,

to me personally known, who, being by me duly sworn, says that he is a Vice President of NATIONAL RAILROAD PASSENGER CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

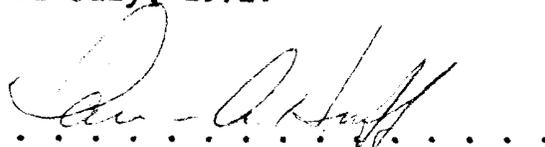


Notary Public.

CERTIFICATE

I, Lawrence A. Huff, a Notary Public in and for the District of Columbia, hereby certify that I have compared the attached copy of Lease with the original document and that it is a true and correct copy in all respects.

DATED this 5th day of July, 1972.



Lawrence A. Huff  
Notary Public

in and for the District of Columbia  
My commission expires June 30, 1977.