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ALFRED F. BURGESS  
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JAMES C. PARHAM, JR.  
JAMES M. SHOEMAKER, JR.  
WILLIAM W. KEHL  
CHARLES W. WOFFORD  
LARRY D. ESTRIDGE  
D. ALLEN GRUMBINE  
CARY H. HALL, JR.  
CARL F. MULLER  
HENRY L. PARR, JR.  
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WYCHE, BURGESS, FREEMAN & PARHAM

PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

GREENVILLE, SOUTH CAROLINA 29603

RECORDATION NO. 10852-A  
Filed 1425

September 27, 1979

POST OFFICE BOX 10207  
44 EAST CAMPERDOWN WAY  
CABLE ADDRESS: JURAL  
TELEPHONE 803-242-3131

SEP 28 1979 - 2 40 PM

INTERSTATE COMMERCE COMMISSION

Mrs. Lee  
Interstate Commerce Commission  
Room 1227  
Constitution Avenue at 12th St., N.W.  
Washington, D. C. 20023

No. 8-271A074 10852  
RECORDATION NO. Filed 1425  
Date SEP 28 1979  
Fee \$ 100.00 SEP 28 1979 - 2 40 PM  
INTERSTATE COMMERCE COMMISSION  
CC Washington, D.C.

Re: Equipment Lease Agreement between National Railway  
Utilization Corporation and Jamestown of Indian  
Harbour Beach Co. dated as of September 28, 1979

Dear Mrs. Lee:

RECORDATION NO. 10852-B  
Filed 1425

Enclosed for filing under Section 20c of the Interstate  
Commerce Act are the following documents:

SEP 28 1979 - 2 40 PM

INTERSTATE COMMERCE COMMISSION

1. Equipment Lease Agreement between National Railway  
Utilization Corporation and Jamestown of Indian  
Harbour Beach Co. dated September 28, 1979.
2. Security Agreement between National Railway Utilization  
Corporation, Jamestown of Indian Harbour Beach Co., and  
Girard Bank, dated as of September 28, 1979.
3. Supplement to Lease between National Railway Utilization  
Corporation and Jamestown of Indian Harbour Beach Co.

The address of National Railway Utilization Corporation is  
1100 Centre Square East, 1500 Market Street, Philadelphia, Pa.,  
19102. The address of Jamestown of Indian Harbour Beach Co. is  
42 East Gay Street, Columbus, Ohio, 42315. The address of Girard  
Bank is 3 Girard Plaza, Philadelphia, Pa. 19102.

I enclose a check in the amount of \$100 to cover the costs of  
this filing made payable to the Interstate Commerce Commission.

Very truly yours,

Carl F. Muller  
Carl F. Muller  
FEE OPERATION BR.  
I.C.C.

CFM/bjm

SEP 28 2 38 PM '79

RECEIVED

Interstate Commerce Commission  
Washington, D.C. 20423

9/28/79

OFFICE OF THE SECRETARY

Carl F. Muller  
Wyche, Burgess, Freeman & Parham  
P.O.Box 10207  
Greenville, S.C. 29603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6 9/28/79 at 2:40pm, and assigned re-  
recording number(s) 10852, 10852-A & 10852-B

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

2

10852

RECORDATION NO. .... Filed 1425

SEP 28 1979 - 2 40 PM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE AGREEMENT

dated as of September 28, 1979

among

National Railway Utilization Corporation and Pickens Railroad Company,  
both being South Carolina corporations,

as Lessee

and

Jamestown of Indian Harbour Beach Co.  
an Ohio corporation,

as Lessor

## Equipment Lease Agreement

This Equipment Lease Agreement is dated as of September 28, 1979 is among JAMESTOWN OF INDIAN HARBOUR BEACH CO. (hereinafter termed "Lessor"), an Ohio corporation, and NATIONAL RAILWAY UTILIZATION CORPORATION and PICKENS RAILROAD COMPANY (both hereinafter collectively termed "Lessee"), a South Carolina corporation, and has reference to the following:

### Recitals

- (a) Lessee has ordered the Equipment from its suppliers;
- (b) Lessee has assigned to Lessor certain rights of Lessee under the Purchase Order (including the right to purchase the Equipment in accordance with the terms of the Purchase Order) pursuant to the Purchase Order Assignment;
- (c) Lessor desires to lease the Equipment to Lessee, and Lessee desires to lease the Equipment from Lessor, subject to the terms and conditions of this Lease.

For purposes of convenience, this Lease is divided into sections, it being understood, however, that all sections herein are considered together as part of one and the same document.

### Definitions

1 Defined Terms. Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Lease and shall be equally applicable to both the singular and the plural forms of the terms herein defined:

- 1.1 "Date of Acceptance" with reference to any Unit shall mean the date on which such Unit is ready to be placed in service for its intended use and is accepted by Lessee as being subject to the Lease.
- 1.2 "Equipment" shall mean collectively the items of equipment specified in Schedule A to this Lease.
- 1.3 "Event of Default" shall have the meaning set forth in subsection 7 of this Lease.
- 1.4 "Event of Loss" shall have the meaning set forth in subsection 6.5 of this Lease.
- 1.5 "Imposts" shall have the meaning set forth in subsection 6.4 of this Lease.
- 1.6 "Indemnity" shall have the meaning set forth in subsection 6.9 of this Lease.

1.7 "Lease" shall mean this Equipment Lease Agreement dated September 28, 1979 between Lessor and Lessee.

1.8 "Lessee" shall mean National Railway Utilization Corporation and Pickens Railroad Company, both being South Carolina corporations.

1.9 "Lessor" shall mean Jamestown of Indian Harbour Beach Co., an Ohio corporation.

1.10 "Original Cost" with respect to any Unit or Units shall mean the full purchase price of such Unit or Units, including but not limited to, freight, sales tax and installation costs, as invoiced by the Vendor pursuant to and in conformity with the Purchase Order and as confirmed by a Supplement identifying such Unit.

1.11 "Purchase Order" shall mean the purchase order or orders numbered 1580, dated May 5, 1978, as amended by various change orders, and issued by Lessee to Vendor.

1.12 "Purchase Order Assignment" shall mean the Purchase Order Assignment entered into as of September 28, 1979 between Lessor and Lessee with the consent of Vendor.

1.13 "Remaining Lease Term" with respect to any Unit shall mean the period beginning with the date of the occurrence of an Event of Default and ending on the date on which the Term of Lease of such Unit would have terminated under this Lease if an Event of Default had not occurred.

1.14 "Rental Payment" or in the aggregate "Rental Payments" shall have the meaning set forth in sub-subsection 2.3.1 of the Lease.

1.15 "Rental Payment Date" shall mean a date on which a Rental Payment is due.

1.16 "Stipulated Loss Value" on any Rental Payment Date shall mean, with reference to any Unit, an amount determined by multiplying the Original Cost with reference to such Unit by the percentage specified in Schedule B to this Lease opposite the number identifying the consecutive Rental Payment then due.

1.17 "Supplement" shall mean a Supplement to the Lease substantially in the form of Schedule C to the Lease which identifies the Units that have been accepted by Lessee, confirms Lessee's acceptance under the terms of this Lease, and confirms that the Units have been leased by Lessor to Lessee pursuant to the terms of this Lease.

1.18 "Term of Lease" shall have the meaning set forth in subsection 2.2. of this Lease.

1.19 "Unit" shall mean an individual item of Equipment as specified in Schedule A to this Lease. More Units than one are sometimes collectively referred to as Units.

1.20 "Vendor" shall mean Berwick Forge & Fabricating Division of Whittaker Corporation, a California corporation.

### Lease of Equipment

2 Lease of Equipment. In consideration of the mutual covenants and undertakings herein contained, Lessor and Lessee agree as follows:

2.1 Lease. Subject to the terms and conditions of this Lease, Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the Equipment; provided, however, that Lessor shall have no obligation to purchase for, and lease to Lessee (i) any Unit that shall not have been delivered by the supplier thereof to, and accepted by, Lessee no later than September 30, 1979, or (ii) any Unit, if the sum of the Original Cost of such unit to Lessor and the Original Cost to Lessor of Units previously leased pursuant to this Lease exceeds \$2,027,500.00. Further, Lessor shall have no obligation to purchase for, and lease to Lessee any Unit for which the Consent to the Purchase Order Assignment shall not have been duly executed by the Vendor. Lessee hereby agrees that it shall accept each and every Unit, if each Unit conforms to the specifications set forth in the Purchase Order, and in no event shall Lessee unreasonably withhold its acceptance. On the Date of Acceptance of a Unit or at such time or times following the Date of Acceptance of a Unit as Lessor may reasonably specify to Lessee, Lessor and Lessee shall enter into a Supplement with reference to such Unit. The determination of how many Units are to be covered by a Supplement shall be made by Lessor in its sole discretion. Each Unit shall be subject to this Lease immediately upon the Date of Acceptance of such Unit notwithstanding the fact that a Supplement relating to such Unit shall not have been entered into until a date subsequent to the Date of Acceptance. Notwithstanding the acceptance and delivery of Units to, and their possession and use by, Lessee, Lessor shall and does hereby retain the full legal title to and property in the same, it being expressly understood that this Lease is an agreement of lease only.

2.2 Term of Lease. The Term of Lease for each Unit shall commence on the Date of Acceptance of such Unit (as confirmed in the Supplement relating to such Unit) and, unless sooner terminated as provided herein, shall terminate on the day next preceding the eleventh anniversary of the Date of Acceptance. If the Term of Lease is extended, the phrase "Term of Lease",

as used in this Lease, shall be deemed to include the extended term. This Lease may not be terminated or cancelled by Lessee for any reason whatsoever, unless otherwise expressly provided herein or unless the Lessor consents.

2.3 Rental Payments. Lessee covenants and agrees to pay to Lessor the following Rental Payments.

2.3.1 Base Quarterly Rent. Lessee covenants and agrees to pay to Lessor, as rental for each Unit, Forty-four (44) consecutive quarter-annual rental payments (herein referred to as "Rental Payment") or in the aggregate as "Rental Payments") in arrears, each such Rental Payment being \$66,875.00, an amount equal to 3.29839% of the Original Cost of such Unit. The first rental payment shall be due on December 31, 1979 and shall be prorated on a daily basis and shall be followed by forty-three (43) payments with the rest due on September 30, 1990. The quarterly payments shall be payable on March 31, June 30, September 30, and December 31 of each year.

2.3.2 Late Payment. In the event that any Rental Payment or other payment hereunder shall not be made promptly when due, Lessee shall pay to Lessor, upon written demand by Lessor, as additional rental, interest on such overdue payment, from the Rental Payment Date of such payment to the date of payment thereof, at the rate of twelve percent (12%) per annum or one percent (1%) over the prime commercial lending rate as set by Continental Illinois National Bank time to time, whichever is the highest rate allowed by law.

2.3.3 Place of Payment. All rental and other payments required to be made by Lessee to Lessor hereunder shall be made in immediately available funds to Lessor at 42 East Gay Street, Columbus, Ohio 43215, care of the Klingheil Management Group Co., and to the attention of E. E. Johnson, or at such other place as Lessor may designate in writing to Lessee.

### Representation and Warranties

3 Lessor's Warranties. Lessor hereby represents and warrants to Lessee that (i) Lessor is a corporation duly organized, validly existing and in good standing under the laws of the State of Ohio; (ii) on the Date of Acceptance, Lessor has received whatever title was conveyed to it by the Vendor; (iii) Lessor has the right to lease the Equipment to Lessee in accordance with the terms of this Lease; and (iv) this Lease has been duly authorized, executed and delivered by Lessor and constitutes the legal, and valid obligation of Lessor, binding in accordance with its terms.

4 Lessor's Disclaimers. The warranties set forth in the preceding Section of this Lease are exclusive and in lieu of all other warranties of Lessor whether written, oral or implied; and Lessor shall not, by virtue of having purchased for, and leased the Equipment to, Lessee under this Lease, or having executed and delivered any document pursuant to this Lease, be deemed to have made any representation, warranty or covenant with respect to the title, merchantability, fitness, condition, quality, durability or suitability of any Unit in any respect or in connection with or for the purposes and uses of Lessee, and LESSOR HEREBY DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTY OF ANY NATURE, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, (i) LESSOR'S TITLE TO THE EQUIPMENT, (ii) THE DESIGN OR CONDITION OF THE EQUIPMENT, (iii) ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, (iv) THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT, OR (v) CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDERS RELATING THERETO, IT BEING UNDERSTOOD THAT LESSEE ACCEPTS THE EQUIPMENT FOR THE PURPOSES HEREOF "AS IS"; it being agreed, however, the Lessor authorizes Lessee to assert for Lessor's account, during the Term of Lease, all of Lessor's rights under any manufacturer's warranty on the Equipment, or any warranty of title, at Lessee's expense, but Lessee shall indemnify and hold harmless Lessor from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by Lessor in connection therewith, as a result of, or incident to any action by Lessee pursuant to the above authorization.

5 Lessee's Warranties. Lessee hereby represents and warrants to Lessor as follows:

5.1 Organization, Corporate Power, etc. Lessee (i) is a corporation duly organized, validly existing and in good standing under the laws of the State of South Carolina, (ii) is qualified to do business in every jurisdiction in which such qualification is necessary and (iii) has the corporate power and authority to own its properties and to carry on its business as now being conducted.

5.2 Validity of Lease. The execution, delivery and performance by Lessee of this Lease have been duly authorized by all requisite corporate action and will not violate any provision of law, any order of any court or other agency of government, the Certificate or Articles of Incorporation or By-Laws of Lessee, or any indenture, agreement or other instrument to which it is a party, or by which it or any of its property is bound, or result in a 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 its

property or assets; and this Lease constitutes the legal, and valid obligation of Lessee, binding in accordance with its terms.

5.3 Financial Statements. All balance sheets, income statements, statements of changes in financial position and other financial data that have been given by Lessee to Lessor with respect to Lessee (i) are complete and correct in all material respects, (ii) accurately present the financial condition of Lessee as of the dates, and the results of its operations for the periods, for which such statements have been furnished, and (iii) have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods covered (except as noted); all balance sheets disclose all known liabilities, direct and contingent, as of their respective dates; and there has been no change in the condition of Lessee, financial or otherwise, since June 30, 1979, the date of the most recent financial statements given to Lessor with respect to Lessee other than changes in the ordinary course of business, none of which changes has been materially adverse.

5.4 Other Information. To the best of Lessee's knowledge and belief, all other written information, reports, papers and data given by Lessee to Lessor with respect to Lessee are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Lessor a true and accurate knowledge of the subject matter.

5.5 Other Agreements. Lessee is not a party to any agreement or instrument materially and adversely affecting its present or proposed business, properties or assets, operation or condition, financial or otherwise; and Lessee is not materially in default in the performance, observance or fulfillment of any obligations, covenants or conditions set forth in any agreement or instrument to which it is a party.

5.6 Taxes. Lessee has filed all Federal, State, county and municipal tax returns required to have been filed by it and has paid all taxes which have become due pursuant to such returns or pursuant to any assessment received by it (except taxes which Lessee is contesting in good faith), and Lessee does not know of any valid basis for additional assessment in respect of such taxes.

5.7 Litigation. There is not now pending against or affecting Lessee, nor to its knowledge is there threatened, any action, suit or proceeding at law or in equity or by or before any administrative agency which if adversely determined would materially impair or affect its financial condition or operation except as disclosed in the most recent financial statement of Lessee given to Lessor or otherwise disclosed in writing to Lessor.

## Covenants of Lessee

### 6 Covenants. Lessee covenants as follows:

6.1 Payment of Rent and Other Monies. Lessee shall promptly pay Lessor each and every Rental Payment and all other amounts payable by it under this Lease without asserting any setoff, counterclaim or other defense for any reason whatsoever. However, Lessee shall have the right to assert any claims or defenses separately against the Lessor.

### 6.2 Use of Equipment. Lessee shall:

6.2.1 use and operate the Equipment (i) in a careful and proper manner, (ii) solely in the conduct of its business, or in the business of any parent, subsidiary or affiliated corporation of Lessee to the extent permitted under the provisions of this Lease, (iii) in a manner and for the use contemplated by the manufacturer thereof and (iv) in compliance with (A) all laws, rules and regulations of every governmental authority having jurisdiction over the Equipment and (B) the provisions of all policies of insurance carried by Lessee pursuant to this Lease. It is understood that Lessee may operate the Equipment or allow the Equipment to be operated on its own tracks or the tracks of railroads and shippers in the usual interchange of traffic or pursuant to run through agreements. Lessee shall not, without the prior written consent of Lessor, affix or install any part, accessory or device on any Unit if the same will impair the originally intended function or use of such Unit. Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of the Equipment.

6.2.2 comply in all respects with all laws of the jurisdiction in which the Units may be operated, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the Department of Transportation and the Interstate Commerce Commission and any other legislative executive, administrative or judicial body exercising any lawful power or jurisdiction over the Units. In the event that such laws or rules require the alteration of the Units or in case any equipment or appliance on any such Unit 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 Unit in order to comply with such laws and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense; and the Lessee agrees at its own expense to use, maintain and operate such Unit in full compliance with such laws and rules so long as it is subject to this Lease; provided, however, that the Lessee, upon notice to the Lessor, may in good faith, contest the validity or

application of any such law or rules in any reasonable manner which does not, in the opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder.

6.3 Maintenance. Lessee shall, at its own cost and expense, maintain, service and repair the Equipment so as to keep it in as good operating condition, order, repair and appearance as it was when it first became subject to this Lease, ordinary wear and tear expected. Lessee shall at its own expense, and within a reasonable period of time, replace all parts of any Unit that may become worn out, lost, destroyed or otherwise rendered permanently unfit for use with appropriate replacement parts, free and clear from any mortgage, lien, charge or encumbrance (and title thereto shall vest in Lessor immediately upon installation, attachment or incorporation of the same in, on or into such Unit).

6.4 Taxes. In addition to the Rental Payments and other amounts payable by Lessee under this Lease, Lessee shall pay promptly all taxes, assessments, license fees and other governmental charges, municipal, state, Federal and foreign (herein referred to as "Imposts"):

6.4.1 levied or assessed against Lessee (i) in respect of this Lease or the Purchase Orders or sales contracts issued in connection with the purchase of the Equipment, (ii) upon the interest of the Lessee in the Equipment, (iii) upon the use or operation thereof, or (iv) upon the earnings of Lessee arising therefrom; or

6.4.2 levied or assessed against Lessor as a result of the ownership, leasing, renting, possession or use of the Equipment, excluding, however, all taxes on or measured by Lessor's net income or franchise taxes of Lessor. However, Lessee shall not be required to pay any such Imposts if and so long as it shall in good faith, with due diligence and by appropriate legal or administrative proceedings contest the validity, applicability or amount thereof. If the claim is made against Lessor for any Imposts payable by Lessee hereunder, Lessor shall promptly notify Lessee, and if Lessor pays the same according to the terms of this Lease, Lessee will promptly reimburse Lessor therefor. If any Imposts payable by Lessee hereunder is, by law, to be assessed or billed to Lessor, Lessee shall, at its expense, do any and all things required to be done by Lessor in connection with the levy, assessment, billing or payment thereof; and Lessor hereby authorizes Lessee to act for and on behalf of Lessor, in connection therewith, but Lessee shall indemnify and hold harmless Lessor from and against any and all claims and all costs, expenses, damages, losses and liabilities incurred or suffered by Lessor in connection therewith, as a result of, or incurred or suffered by Lessor in connection therewith, as

a result of, or incident to, any action by Lessee pursuant to the above authorization. Lessee shall cause all billing of Imposts levied against Lessor to be made to Lessor in care of Lessee, and shall, from time to time, on request of Lessor, submit written evidence of the payment of such Imposts.

6.5 Loss of Equipment. Lessee shall bear the risk of the Equipment being lost, destroyed or otherwise rendered permanently unfit or unavailable for use (herein called an "Event of Loss") after its delivery to and acceptance by Lessee hereunder. For the purposes of this Lease, a Unit shall be deemed to have been otherwise rendered permanently unfit or unavailable for use, without limiting the general meaning of such phrase, if any such Unit shall have been (i) confiscated, condemned or taken by any governmental body, de fact or de jure, by exercise of the power of eminent domain or otherwise, (ii) damaged to such an extent rendering repair impracticable or uneconomic or (iii) stolen or misappropriated and not recovered by Lessee within sixty (60) days after discovery or notice thereof. No such Event of Loss shall impair the obligations of Lessee under this Lease, all of which shall continue in full force and effect; and Lessee, at Lessor's option, shall either (a) place the affected Equipment in good repair, condition and working order or (b) replace the same with like Equipment in good repair, condition and working order or (c) pay the Lessor the "Stipulated Loss Value" of the affected Equipment, as determined in accordance with the attached schedule (which is incorporated herein), and upon such payment this Lease shall terminate with respect to such item of Equipment. After compliance with the foregoing to Lessor's satisfaction, and provided Lessee is not in default under this Lease, Lessee shall be subrogated to the extent of the Stipulated Loss Value paid, to Lessor's rights with respect to any insurance policies or claims for reimbursement by others with respect to such loss, damage, theft or destruction. The Lessor shall retain all other amounts.

6.6 Insurance Coverage. Lessee will carry, at Lessee's cost and at no cost to Lessor, with insurers of recognized responsibility:

6.6.1 comprehensive public liability insurance for personal injury and property damage in respect of the operation and use of the Equipment, in an amount not less than Ten Million Dollars (\$10,000,000.00) for each occurrence.

6.6.2 If and so long as the combined net worth of the Lessee shall fall below Ten Million Dollars (\$10,000,000.00) and the Lessee shall have sustained during any preceeding twelve month period a cash loss of One Million Dollars (\$1,000,000), then the Lessee shall be required to maintain all risks, physical loss and damage insurance on the Equipment.

6.7 Insurance Policy Provisions. Lessee shall cause each insurance policy issued pursuant to the requirements of this Lease to provide, and the insurer issuing such policy to certify to Lessor, as follows:

6.7.1 as to public liability and property damage insurance, that (i) Lessor, as owner and Lessor of the Equipment, is an additional insured thereunder, (ii) all provisions of such policy, except the limits of liability, will operate in the

same manner as if there were a separate policy covering each insured and (iii) if such policy be cancelled or materially changed for any reason whatsoever such insurer will promptly use its best efforts to notify Lessor.

6.8 Delivery of Policies and Receipts for Premiums. Lessee shall deliver to Lessor copies of each such insurance policy (or a certificate of insurance relating thereto) upon the execution hereof and copies of each renewal policy (or a certificate or other evidence of insurance relating thereto) prior to the expiration of the original policy or preceding renewal policy, as the case may be (provided, however, that Lessee shall notify Lessor in writing of the status of such insurance thirty (30) days prior to the expiration thereof in the event it has not then delivered to Lessor a renewal policy, or a certificate or other evidence that the premiums thereon have been paid if reasonably requested by Lessor.

6.9 Indemnity. Except for the acts of the Lessor and to the extent not elsewhere provided in this lease, Lessee agrees to indemnify and hold harmless Lessor from and against any and all liabilities, obligations, expenses, claims (including claims for negligence or strict liability in tort), losses, costs, disbursements (including reasonable legal fees and expenses), actions, suits, judgments, penalties and damages of whatsoever kind and nature (herein referred to individually as "Indemnity" and collectively as "Indemnities") imposed on, incurred by or asserted against Lessor or any successors or assigns of Lessors, in any way relating to or arising out of this Lease or arising out of any of the letters, agreements or instruments executed in connection with this Lease, including, but not limited to:

(i) the manufacture, purchase, delivery, non-delivery, acceptance or rejection, ownership, management, lease, control, possession, use, operation, storage, condition, sale, return or other disposition, of the Equipment, or any part thereof,

(ii) the use in or about the construction or operation of the Equipment of any design, article, or material which infringes or is claimed to infringe on any patent, trademark, copyright or other right, or

(iii) the failure of Lessee to observe and conform to the statutes, ordinances or other regulations or requirements of any governmental authority applicable or relating to the Equipment, except for any Indemnities arising out of the gross negligence or willful misconduct of Lessor.

The covenant of indemnity contained in this subsection shall continue in full force and effect notwithstanding the full payment of all amounts due hereunder or the termination of this Lease in any manner whatsoever.

The Lessee's obligations under the Indemnities provided for in this Lease shall be those of a primary obligor regardless of whether the Lessor shall also be indemnified with respect to the same matter under the terms of any other document or instrument, and the Lessor may proceed directly against the Lessee without first seeking to enforce any other right of indemnification. Upon the payment in full by the Lessee of any Indemnity provided for under this Lease, the Lessee shall be subrogated to any right of the Lessor in respect of the matter as to which such Indemnity was paid.

Nothing contained in this indemnity shall be construed to be a guarantee by the Lessee of any residual value in the Equipment.

6.10 Inspection. Lessee shall permit any person designated by Lessor, at Lessor's expense and at its option, to visit and inspect the Equipment, or any part thereof, and any records pertaining to the use and maintenance thereof, at such reasonable times and places and as often as Lessor may reasonably request. Lessor is under no duty or obligation to inspect the Equipment.

6.11 Possession; Assignment; Pledge. Lessee shall not, without the prior written consent of Lessor:

6.11.1 sublease, hire out or otherwise transfer or part with the possession, control or custody of the Equipment, or any part thereof, except in the normal course of Lessee's business;

6.11.2 assign this Lease or its interest hereunder; or

6.11.3 create, incur or suffer to exist any mortgage, pledge, lien, encumbrance or charge on, or adverse claim with respect to, the Equipment, or any part thereof, or its interest therein, by, through or under Lessee.

6.12 Identification. Lessee shall, at its own cost and expense, cause each Unit to be legibly marked in a reasonably prominent location with a plate, disc or other appropriate marking as shall, in the opinion of Lessor, be appropriate or desirable to evidence the fact of Lessor's ownership of such Unit. Lessee shall not remove or deface, or permit to be removed or deface, any such plate, disc or other marking or the identifying manufacturer's serial number with respect to such Unit, and, in the event of any such removal or defacement, Lessee shall promptly cause such plate, disc, other marking or serial number to be replaced. Lessee shall not allow the name of any person, association or corporation to be placed on any Unit in any manner that might be interpreted as a claim of ownership; provided, however, that Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by Lessee on equipment used by it of the same or a similar type as

the Equipment for convenience of identification of its rights to use the Equipment as permitted under this Lease.

6.13 Equipment to be Personal Property. It is expressly understood that all the Equipment shall be and remain personal property notwithstanding the manner in which the same may be attached or affixed to realty, and Lessee shall do all acts and enter into all agreements necessary to insure that the Equipment remains personal property.

6.14 Financial Statements. Lessee shall furnish to Lessor:

6.14.1 within sixty (60) days after the end of each of the first three (3) quarters of each of its fiscal years, its income statement for such quarter and for the fiscal year to the end of such quarter and balance sheet as of the end of such quarter certified by the principal financial officer of Lessee as having been prepared in accordance with accounting principles consistent with those reflected in its audited financial statements and as to the truth, accuracy and completeness of the information contained therein;

6.14.2 within one hundred twenty (120) days after the end of each of its fiscal years, a complete conformed copy of an executed report of an examination of its financial affairs made by recognized and reputable independent certified public accountants, such report to include a balance sheet, a statement of changes in financial position and an income statement for such year and an unqualified opinion to the effect that such balance sheet, statement of changes in financial position and income statement fairly represent the financial condition of Lessee and the results of its operations in conformance with generally accepted accounting principals applied on a consistent basis, except as may be described in such opinion.

Any financial statement furnished pursuant to this subsection may be a consolidated statement (i.e., consolidate the financial information with respect to Lessee with that of its consolidated subsidiaries, if any).

#### Default

7 Events of Default. The occurrence of any of the following shall constitute an Event of Default hereunder:

7.1 Default in Payment. Lessee shall fail to pay all or any part of a Rental Payment or other payment hereunder when and as the same shall become due and payable, and shall continue to fail to do so for a period of ten (10) days after written notice thereof by Lessor to Lessee, or such lesser period as any lender shall specify in any documents financing the Equipment.

7.2 Breach of Warranty. Any representation or warranty made in this Lease, or in any report, certificate, financial statement or other statement furnished pursuant to the provisions of this Lease, shall prove to have been false or misleading in any material respect as of the date on which the same was made.

7.3 Breach of Covenant. Lessee shall fail to duly observe or perform any covenant, condition or agreement made by it hereunder or under any other agreement between Lessor and Lessee, and shall continue to fail to observe or perform the same for a period of thirty (30) days after written notice thereof by Lessor to Lessee.

7.4 Bankruptcy, Receivership, Insolvency, etc. Bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation or other similar proceedings shall be instituted by or against Lessee, or all or any part of its property, under the Federal bankruptcy law as presently existing or as amended or under a future bankruptcy law of the United States or other law of the United States or of any state or other competent jurisdiction, and, if against Lessee, it shall consent thereto or shall fail to cause the same to be discharged within thirty (30) days.

8 Remedies. If any Event of Default hereunder shall occur and be continuing, Lessor may exercise any one or more of the following remedies:

8.1 Termination of Agreement. Terminate this Lease and Lessee's rights hereunder.

8.2 Specific Performance or Damages. Proceed, by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof.

8.3 Repossession. Subject always to any mandatory requirements of applicable law then in effect:

8.3.1 personally, or by agents or attorneys, retake possession of the Equipment, or any Unit, from Lessee (and any items of Lessee, in or on the Equipment at the time of repossession, wherever such items may be, which items shall be held in storage at Lessee's expense, without liability on the part of Lessor), without notice or hearing or other process of law, without liability to return to Lessee any Rental Payment or other payments previously made and free from all claims made by Lessee, and for that purpose Lessor may enter upon Lessee's premises where any of the Equipment is located, remove the same without liability for suit, action or proceeding by Lessee and, use in connection with

such removal any and all services, supplies, aids and other facilities of Lessee; or

8.3.2 retake possession of the Equipment, or any Unit thereof, without liability to return to Lessee any Rental Payment or other payments theretofore made and free from all claims by Lessee, by directing Lessee in writing to assemble the Equipment and deliver the same to Lessor at Chicago, Illinois, in which event Lessee shall, at its own expense, forthwith cause the same to be moved to the place so designated and there delivered to Lessor; it being understood (i) that Lessee's obligations so to deliver the Equipment are of the essence of this Lease and that, accordingly, upon application to a court of equity having jurisdiction, Lessor shall be entitled to a decree of specific performance by Lessee of such obligations; and (ii) that Lessor may, without charge, pending further action by Lessor as hereinafter provided keep any of the Equipment repossessed by Lessor, pursuant to this clause on the premises of Lessee; provided, however, that if the storage of the Equipment thereon materially interferes with the efficient operation of such premises the Equipment shall be removed to and stored (at the expense of Lessee) at any other location mutually agreed upon by Lessor and Lessee.

8.4 Other Remedies. Exercise any other remedy specifically granted hereunder or now or hereafter existing in equity or at law, by virtue of statute or otherwise.

#### Disposition

9 Disposition of Equipment. In the event Lessor repossesses the Equipment, Lessor may (a) lease the Equipment, or any portion thereof, in such manner, for such time and upon such terms as Lessor may determine, or (b) sell the Equipment, or any portion thereof, at one or more public or private sales, in such manner at such time or times and upon such terms as Lessor may determine.

9.1 Lease. In the event that Lessor shall enter into a lease or leases with an unrelated third party covering any Units that have been repossessed by Lessor from Lessee pursuant to this Lease, Lessee shall pay to Lessor the sum total of (i) any and all expenses and fees (including reasonable attorneys' fees) incurred by Lessor in retaking possession of, and removing, storing and leasing such Units to bring them into conformity with the maintenance standards set forth in this Lease, (ii) the costs and expenses incurred by Lessor, if any, in repairing such Units, to bring them into conformity to the standards set forth in this Lease, (iii) all Rental Payments then due and unpaid under this Lease, (iv) the net present value (calculated at twelve percent (12%) per annum) of the Rental Payments then remaining unpaid under this Lease, (v) any and all other sums then owing to Lessor by Lessee pursuant to this Lease, minus the net present value

(calculated at twelve percent (12%) per annum) of the rentals contracted to be received by Lessor from such third party. Lessor shall retain any excess of such net present value of the rentals contracted to be received by Lessor from a third party over the sum total of the amounts referred to in clauses (i) through (v) above.

9.2 Sale. In the event that Lessor shall sell or otherwise dispose of (other than pursuant to to a lease) any Unit, the proceeds shall be applied to the payment of (i) any and all expenses and fees (including reasonable attorneys' fees) incurred by Lessor in retaking possession of, and removing, storing and selling or otherwise disposing of such Unit, (ii) the costs and expenses incurred by Lessor, in any, in repairing such Unit to bring it into conformity with the maintenance standards set forth in this Lease, (iii) the Rental Payments accrued under this Lease but unpaid up to the time of such sale or other disposition, (iv) any and all other sums (other than Rental Payments) then owing to Lessor by Lessee and (v) the Stipulated Loss Value of the Equipment determined as of the Rental Payment Date next preceeding such sale or other disposition. The remaining balance of such proceeds, if any, shall be retained by Lessor. Lessee shall remain liable to Lessor to the extent that the aggregate amount of the sums referred to in clauses (i) through (v) above shall exceed the aggregate proceeds received by Lessor in connection with the sale or disposition of the Equipment.

#### Purchase Option

10 Purchase Option. So long as no Event of Default shall have occurred and be continuing, Lessee shall have the right at the expiration of the term of this lease as to each item or items of Equipment to purchase all but not less than all of the Equipment on an AS-IS-WHERE-IS basis, for cash, at a price equal to the "fair market value" (as defined). Lessee shall give Lessor written notice 180 days prior to the end of the original lease term of its election to exercise the purchase option provided for herein.

The "fair market value" shall be such amount as is mutually agreed upon by Lessor and Lessee; provided however, if Lessor and Lessee are unable to agree upon the fair market value of the Equipment within thirty (30) days after receipt by Lessor of the notice of Lessee's election to exercise the purchase option, the fair market value shall be determined by an appraiser selected by mutual agreement of Lessor and Lessee. If Lessor and Lessee are not able to agree upon an appraiser, or if the fair market value is not so determined within ninety (90) days after receipt by Lessor of Lessee's election to purchase, the same shall be determined by a nationally prominent independent appraiser of Lessor's own choice. The fair market value as finally determined shall bear interest for the period, if any, from the date of expiration of the lease term to the date of payment at the rate of twelve (12) percent per annum.

Unless Lessee has given Lessor the 180 days' notice required in connection with the exercise of the foregoing option, all the Equipment then leased hereunder shall be returned to Lessor in accordance with Section 11 hereof.

### Return of Equipment

11 Return of Equipment. Upon the expiration of the Term of Lease with respect to any Unit, other than pursuant to an Event of Default, Lessee shall, at its own expense, return such Unit by delivering the same to Lessor at Chicago, Illinois. At the time of such return, such Unit shall be free and clear of all liens, encumbrances and rights of others required to be cleared by Lessee under the terms of this Lease and shall be in as good condition as when delivered to Lessee hereunder, and Lessee shall have paid the cost of any repairs necessary to restore such Unit to such condition, ordinary wear and tear excepted. Thereafter, Lessee shall have no further interest in such Unit. Lessor may keep such Unit or sell, lease or otherwise dispose of such Unit and collect and retain all proceeds received in connection therewith. Notwithstanding anything to the contrary in the foregoing, Lessee shall return any such Unit to another location (other than Chicago, Illinois), provided that Lessor shall have furnished Lessee with reasonable notice in writing thereof and provided further, that the expenses of so returning such Unit to such a location, would not be greater than the expenses to be incurred in returning the same to Chicago, Illinois.

### Miscellaneous

12 Additional Provisions. In addition to the foregoing Lessor and Lessee agree as follows:

12.1 Performance of Lessee's Obligations. If Lessee shall fail to make payment or perform any act required by this Lease, Lessor may, but shall not be obligated to, make such payment or perform such act for the account of and at the expense of Lessee, without notice to or demand upon Lessee and without waiving or releasing any obligation or default. Lessee shall indemnify and hold harmless Lessor from and against all losses and expenses (including, but not limited to, reasonable attorneys' fees) suffered or incurred by Lessor by reason of any acts performed by it pursuant to this subsection; and Lessee shall pay to Lessor, upon demand, all sums expended by Lessor pursuant to this subsection or with respect to which it shall be entitled to be indemnified, plus interest thereon, at the rate of fifteen percent (15%) per annum or the highest rate allowed by law, whichever is less, from the date on which such sums are expended by Lessor to the date on which Lessee pays the same to Lessor.

12.2 Further Assurances. Lessee agrees that at any time, and from time to time, after the execution and delivery of this

Lease, it shall, upon request of Lessor, execute and deliver such further documents and do such further acts and things as Lessor may reasonably request in order to fully effect the purposes of this Lease, including but not limited to, any and all information necessary to enable Lessor to properly complete and file tax returns for any and all states or political subdivisions.

12.3 Rights, Remedies, Powers. Each and every right, remedy and power granted to Lessor hereunder shall not be exclusive but shall be cumulative and in addition to any other right, remedy or power herein specifically granted or now or hereafter existing in equity, at law, by virtue of statute or otherwise and may be exercised by Lessor from time to time concurrently or independently as often and in such order as Lessor may deem expedient. Any failure or delay on the part of Lessor in exercising any such right, remedy or power, or abandonment or discontinuance of steps to enforce the same, shall not operate as a waiver thereof or affect Lessor's right thereafter to exercise the same, and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power.

12.4 Modification, Waiver, Consent. Any modification or waiver of any provision of this Lease, or any consent to any departure by Lessee therefrom shall not be effective in any event unless the same is in writing and signed by Lessor, and then such modification, waiver or consent shall be effective only in the specific instance and for the specific purpose given. Any notice to or demand on Lessee in any event not specifically required of Lessor hereunder shall not entitle Lessee to any other or further notice or demand in the same, similar or other circumstances unless specifically required hereunder.

12.5 Communications. Any notice, request, demand, consent, approval or other communication provided or permitted hereunder shall be in writing and be given by personal delivery or sent by United States first class mail, postage prepaid, addressed as follows:

if to Lessor: Jamestown of Indian Harbour Beach Co.  
c/o Klingbeil Management Group Co.  
Attn: Ernest Johnson  
42 East Gay Street  
Columbus, Ohio 43215

if to Lessee: National Railway Utilization Corporation  
Attn: Vice President of Finance  
1100 Centre Square East  
1500 Market Street  
Philadelphia, Pennsylvania 19102

provided, however, that either party may change its address for purposes of receipt of any such communication by giving ten (10) days' written notice of such change to the other party in the manner above prescribed.

12.6 Section Headings, etc. Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Lease. All references herein to sections, paragraphs, clauses and other subdivisions refer to the corresponding sections, paragraphs, clauses and other subdivisions of this Lease; and the words "herein", "hereof", "hereby", and "hereunder", and words of similar import refer to this Lease as a whole and not to any particular section, paragraph, clause or other subdivision hereof. All exhibits, appendixes, or schedules attached hereto and referred to herein shall be deemed a part of this Lease.

12.7 Governing Law. This Lease shall be deemed to have been made under and shall be governed by, the laws of the State of Ohio in all respects, including matters of construction, validity and performance.

12.8 Severability. If any provision of this Lease is prohibited by, or is unlawful or unenforceable under, any applicable law of any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof; provided, however, that any such prohibition in any jurisdiction shall not invalidate such provision in any other jurisdiction; and provided further, that where the provision of any such applicable law may be waived, they hereby are waived by Lessee to the full extent permitted to the law to the end that this Lease shall be deemed to be a valid and binding agreement in accordance with its terms.

12.9 Assignment. Lessor, or any assignee of Lessor, may at any time, without notice to or consent by Lessee, sell, assign, transfer or mortgage or otherwise encumber its interest under this Lease or in the Equipment, subject to the terms of this Lease and the rights of Lessee hereunder, and upon receipt of written notice of any such assignment, Lessee shall recognize such assignment subject to the rights of Lessee against Lessor hereunder. No assignment or reassignment shall release Lessor from its obligations to Lessee under this Lease. Lessor agrees to deliver to Lessee a copy of each agreement evidencing any such sale, assignment, transfer, mortgage or other encumbrance, or the portion thereof which effects compliance with the provisions of this section, as soon as practicable after the execution and delivery thereof.

12.10 Use of Equipment Beyond Lease Term. If Lessor permits the use of any Unit beyond the Term of Lease with respect thereto, the obligations of Lessee hereunder shall continue; provided,

however, that such permissive use shall not be construed as a renewal of such term of lease nor as a waiver of any right or continuation of any obligation of Lessor hereunder, and Lessor may take possession of such Unit at any time upon demand.

12.11 Entire Agreement. This Lease contains the entire agreement between Lessor and Lessee with respect to the subject matter hereof and supersedes and cancels any prior understandings and agreements between Lessor and Lessee with respect thereto.

If Lessee fails to return any item of equipment at the expiration of the lease term and Lessee does not exercise the Purchase Option, then the lease shall automatically be renewed from month to month with rent payable monthly, in arrears, at the rental rate applicable during the original lease term, adjusted to monthly payments.

12.12 Binding Effect. The Lease, shall be binding upon and shall inure to the benefit of the respective successors and assigns of Lessee and Lessor.

12.13 Counterparts. This Lease may be executed in counterparts, and each such counterpart shall, for all purposes, constitute one agreement binding upon the parties hereto, notwithstanding that both parties are not signatory in the same counterpart.

12.14 Survival. The representations, warranties, indemnities and agreements of the Lessee provided for in this Lease, and the Lessee's obligations under any and all such representations, warranties, indemnities and agreements, shall survive the return of the Equipment to Lessor and, the expiration or other termination of this Lease.

12.15 Lessor and Lessee expressly agree that this lease shall be subject and subordinate to the interest of any lender financing the Equipment.

12.16 The obligations of each Lessee shall be joint and several.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease.

JAMESTOWN OF INDIAN HARBOUR BEACH CO.  
("Lessor")

ATTEST:

Jack R. Pagan  
Assistant Secretary

By Ernest E. Johnson  
Ernest E. Johnson, Vice President

NATIONAL RAILWAY UTILIZATION CORPORATION  
("Lessee")

ATTEST:

C. W. Hozeped  
Asst. Secretary

By Charles P. Turnburke  
Charles P. Turnburke, Vice President

PICKENS RAILROAD COMPANY  
("Lessee")

ATTEST:

C. W. Hozeped  
Asst. Secretary

By Charles P. Turnburke  
Charles P. Turnburke, Vice President

STATE OF PENNSYLVANIA        )  
  )  
COUNTY OF PHILADELPHIA    )    SS:

ON THIS 28th day of September, 1979, before me personally appeared Charles P. Turburke, to me personally known, who being by me duly sworn, says that he is the Vice President of National Railway Utilization Corporation, 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.

Theodore C. Porter

My Commission Expires:

Prothonotary of Pennsylvania

THEODORE C. PORTER  
Notary Public, Phila., Phila. Co.  
My Commission Expires August 29, 1983

STATE OF PENNSYLVANIA        )  
  )    SS:  
COUNTY OF PHILADELPHIA    )

ON THIS 28th day of September, 1979, before me personally appeared *Ernest Johnson*, to me personally known, who being by me duly sworn, says that he is the Vice President ~~and Secretary~~ of Jamestown of Indian Harbour Beach Company, 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.

*Theodore C. Porter*

My Commission Expires:

\_\_\_\_\_  
Prothonotary of Pennsylvania

**THEODORE C. PORTER**  
Notary Public, Phila., P.M. Co.  
My Commission Expires August 29, 1983

STATE OF PENNSYLVANIA        )  
  )    SS:  
COUNTY OF PHILADELPHIA    )

ON THIS 28th day of September, 1979, before me personally appeared Charles Thiermeke, to me personally known, who being by me duly sworn, says that he is the Vice President of Pickens Railroad Company, 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.

Theodore C. Porter

My Commission Expires:

\_\_\_\_\_  
Prothonotary of Pennsylvania

THEODORE C. PORTER  
Notary Public, Phila., Phila. Co.  
My Commission Expires August 29, 1983

SCHEDULE A

to the

Equipment Lease Agreement dated as of September 28, 1979

between

Jamestown of Indian Harbour Beach Co. ("Lessor")

and

National Railway Utilization Corporation and  
Pickens Railroad Company ("Lessee")

DESCRIPTION OF EQUIPMENT

The Equipment covered by the Equipment Lease Agreement  
identified above is as follows:

<u>Quantity</u>	<u>Unit Description</u>	<u>Vendor</u>	<u>Purchase Order No.</u>
50	Fifty foot, 70 ton Box Cars, Type XM Car Numbers NSL160050 thru NSL160099	Berwick Forge & Fabricating, Division of Whittaker Corporation	1580

Schedule B  
to the  
Equipment Lease Agreement dated as of September 28, 1979  
between  
Jamestown of Indian Harbour Beach Co. ("Lessor")  
and  
National Railway Utilization Corporation and  
Pickens Railroad Company ("Lessee")

STIPULATED LOSS VALUES

The Stipulated Loss Value of a Unit of the Equipment covered by the Equipment Lease Agreement identified above, as of any Rental Payment Date, shall be an amount equal to the product of (i) the Original Cost of such Unit (as specified in the Supplement to such Agreement covering such Unit) and (ii) the percentage indicated below opposite the number identifying the consecutive Rental Payment due on such Rental Payment Date.

<u>Consecutive Rental Payment</u>	<u>Percentage</u>	<u>Consecutive Rental Payment</u>	<u>Percentage</u>
1	101.149	26	82.241
2	101.309	27	80.493
3	101.393	28	78.668
4	101.400	29	76.766
5	101.330	30	74.788
6	101.185	31	72.734
7	100.963	32	70.604
8	100.665	33	68.397
9	100.290	34	66.114
10	99.339	35	63.755
11	99.312	36	61.319
12	98.708	37	58.807
13	98.028	38	56.218
14	97.272	39	53.553
15	96.439	40	50.812
16	95.530	41	47.995
17	94.545	42	45.101
18	93.483	43	42.131
19	92.345	44	39.084
20	91.131		
21	89.840		
22	88.473		
23	87.030		
24	85.510		
25	83.914		

After the 11th anniversary of the Term of Lease for such Unit, and until such that such Unit has been surrendered to lessor, as set forth in the Lease, the Stipulated Loss Value of such Unit shall be 39.084% of the Original Cost thereof.

Schedule C  
to the  
Equipment Lease Agreement  
dated as of September 28, 1979  
between  
Jamestown of Indian Harbour Beach Co. ("Lessor")  
and  
National Railway Utilization Corporation and  
Pickens Railroad Company ("Lessee")  
Supplement No. 1  
to the Equipment Lease Agreement  
dated as of September 28, 1979  
between  
Jamestown of Indian Harbour Beach Co. ("Lessor")  
and  
National Railway Utilization Corporation and  
Pickens Railroad Company ("Lessee")

Lessee and Lessor have entered into the Equipment Lease Agreement identified above (hereinafter called the "Lease") pursuant to which Lessor has agreed to lease unto Lessee, and Lessee has agreed to lease from Lessor, subject to the terms and conditions of the Lease, the Units of property described in the Supplements to the Lease.

NOW, THEREFORE, Lessor and Lessee, by entering into this Supplement to the Lease, hereby confirm as follows:

1. Units. The Units described in Exhibit A hereto (hereinafter called the Units) have been delivered and leased by Lessor to Lessee, and have been accepted by Lessee, pursuant to the terms of the Lease.

2. Lease Term.

2.1 The Date of Acceptance and the date of commencement of the Term of Lease with respect to the Units is September 28, 1979.

2.2 The date of termination of such term is September 27, 1990.

3. Rental Payments.

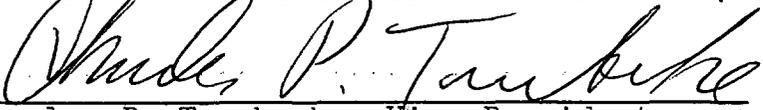
3.1 Base Quarterly Rent. Lessee covenants and agrees to pay to Lessor on each March 31, June 30, September 30 and December 31 of each year during the period commencing on the date of commencement set forth in subsection 2.1 above and ending on the date of termination set forth in subsection 2.2 above, a quarter-annual rental payment, in arrears, for the Units in an amount equal to \$66,875; provided; however, in the event that the Term of Lease shall commence on a day other than the first day of a calendar quarter, the first and last quarter

annual rental payments shall be pro-rated on a daily basis with the last rental payment being payable on the day before the 11th anniversary of the date of commencement of the Term of Lease.

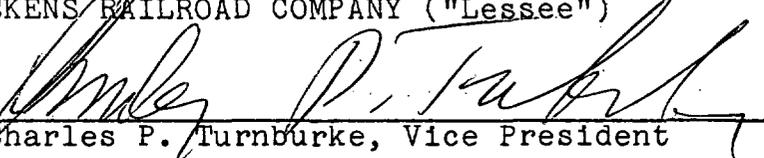
JAMESTOWN OF INDIAN HARBOUR BEACH CO. "(Lessor")

By   
Ernest E. Johnson, Vice President

NATIONAL RAILWAY UTILIZATION CORPORATION ("Lessee")

By   
Charles P. Turnburke, Vice President

PICKENS RAILROAD COMPANY ("Lessee")

By   
Charles P. Turnburke, Vice President