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NSW Number

No. ~~9-1374-071~~
Date JUL 16 1979
Fee \$ 50.00
Washington, D. C.

RECORDATION NO. 10629 Filed 1425
JUL 16 1979 - 12 00 PM
INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
Washington, D. C.

Gentlemen:

Enclosed for recordation under the provisions of 49 USC Section 11303(a) are the original and three counterparts of an Equipment Lease dated as of December 20, 1978.

The general description of the railroad equipment covered by the enclosed document is set forth in Schedule A attached to this letter and made a part hereof.

The names and addresses of the parties are:

Lessor:	First Maryland Leasecorp 25 South Charles Street Baltimore, Maryland 21203
Lessee:	Missouri-Kansas-Texas Railroad Company 701 Commerce Street Dallas, Texas 75202

The undersigned is the Lessor mentioned in the enclosed document and has knowledge of the matters set forth therein.

Please return the original and two counterparts of the Equipment Lease to Gary Green, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Also enclosed is a check in the amount of \$50.00 covering the required recording fee.

Very truly yours,

FIRST MARYLAND LEASECORP

By [Signature]
LESSOR AS AFORESAID

Enclosures

Handwritten signature: C. Quinlan

RECORDED
JUL 16 11 53 AM '79
FEE OPERATION REC
100

MANUFACTURER OF HOPPER CARS..... ACF Industries, Inc.

DESCRIPTION OF HOPPER CARS..... 100 Covered Hopper Cars
bearing Mark and Numbers
MKT 400 to MKT 499,
both inclusive

SPECIFICATIONS FOR HOPPER CARS..... ACF No. 78-OAO-115 of
March 13, 1978

ESTIMATED PRICE OF HOPPER CARS..... \$34,000

PLACE OF DELIVERY OF HOPPER CARS..... Milton, Pennsylvania or
such other place mutually
acceptable to the Lessee,
the Lessor and the
Manufacturer

ESTIMATED DELIVERY FOR HOPPER CARS..... December-January, 1980

OUTSIDE DELIVERY DATE FOR HOPPER CARS..... March 31, 1980

MANUFACTURER OF GONDOLA CARS..... Ortner Freight Car Company

DESCRIPTION OF GONDOLA CARS..... 100 Gondola Cars bearing
Mark and Numbers MKT 12400
to MKT 12499, both
inclusive

SPECIFICATIONS FOR GONDOLA CARS..... OCN 1369-3-78, and amend-
ments thereto

ESTIMATED PRICE OF GONDOLA CARS..... \$32,000

PLACE OF DELIVERY OF GONDOLA CARS..... Covington, Kentucky

ESTIMATED DELIVERY DATES FOR GONDOLA CARS. July - October, 1979

OUTSIDE DELIVERY DATE FOR GONDOLA CARS..... December 31, 1979

(KATY No. 79-1)

10629
RECORDATION NO. Filed 1425

JUL 16 1979 12 00 PM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

Dated as of December 20, 1978

BETWEEN

FIRST MARYLAND LEASECORP

Lessor

AND

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

Lessee

(KATY No. 79-1)
(100 Covered Hopper & 100 Gondola Cars)

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ATTACHMENTS TO EQUIPMENT LEASE:

- SCHEDULE A -- Description of Items of Equipment
- SCHEDULE B -- Certificate of Acceptance
- SCHEDULE C -- Schedule of Casualty Value
- SCHEDULE D -- Schedule of Percentages of Purchase Price

EQUIPMENT LEASE

THIS EQUIPMENT LEASE is dated as of December 20, 1978 and is between FIRST MARYLAND LEASECORP, a Maryland corporation (the "Lessor") and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Delaware corporation (the "Lessee");

R E C I T A L S:

A. Pursuant to a Purchase Order Assignment dated as of December 20, 1978, the Lessee has assigned to the Lessor its right to purchase the equipment referred to below, and pursuant to a Conditional Sale Agreement, dated as of December 20, 1978 (the "Conditional Sale Agreement"), with ACF Industries, Inc. and Ortner Freight Car Company (the "Manufacturers"), the Lessor has agreed to purchase the equipment referred to below, in contemplation that, pursuant to the provisions hereof, the Lessor would acquire such equipment and the Lessee would lease the same therefrom.

B. Pursuant to an Agreement and Assignment, dated as of December 20, 1978 (the "Assignment"), the Manufacturers have assigned their right, security title and interest under the Conditional Sale Agreement to First Security Bank of Utah, N.A., not in its individual capacity but solely as agent, as assignee (the "Assignee").

C. The Lessee, the Lessor and the Assignee have entered into a Participation Agreement dated as of December 20, 1978 (the "Participation Agreement") with the institutional investors named in Schedule I thereto (the "Investors"), providing for the commitment of the Lessor to acquire the equipment (collectively the "Equipment" and individually an "Item of Equipment") described in Schedule A hereto and made a part hereof. Under the Participation Agreement, the Investors will commit to invest in an amount equal to 66.7407% of the Purchase Price (as defined therein and in the Conditional Sale Agreement) of each Item of Equipment. The Participation Agreement provides that the investment will be secured by an assignment of the Lessor's right, title and interest in and to this Lease and in and to the Equipment pursuant to the Conditional Sale Agreement and the Assignment.

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease and Hire. Upon delivery of each Item of Equipment pursuant to the Conditional Sale Agreement by the Manufacturer thereof, the Lessee shall lease and let such Item of Equipment from the Lessor for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. The Lessor will cause each Item of Equipment to be tendered to the Lessee at the place of delivery set forth in Schedule A. Upon such tender, the Lessee will cause an inspector designated and authorized by the Lessee to inspect the same at the Lessee's expense, and, if such Item of Equipment is found to be in good order, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and the Manufacturer thereof a Certificate of Acceptance (the "Certificate of Acceptance") in the form attached hereto as Schedule B with respect to such Item of Equipment; provided, however, that the Lessee shall not accept and the Lessor shall have no obligation to lease any Item of Equipment delivered after the Outside Delivery Date set forth in Schedule A.

1.3. Certificate of Acceptance. The Lessee's execution and delivery of a Certificate of Acceptance with respect to each Item of Equipment pursuant to Section 1.2 hereof shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's or the Lessor's rights, if any, against the Manufacturer thereof, such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that such Item of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to new railroad equipment of the character of the Equipment as of the date of this Lease. By execution and delivery of such Certificate of Acceptance, the Lessee represents that it has no knowledge of any such defect.

1.4. Purchase of Excluded Equipment. In the event of the exclusion of any Item or Items of Equipment from the Conditional Sale Agreement pursuant to Section 2.3 or 3.1 thereof, the Lessee agrees with the Lessor, and also with and for the benefit of the Manufacturers who are hereby designated as third-party beneficiaries to the undertakings of the Lessee set forth in this Section 1.4, that the Lessee will be obligated to purchase from the Manufacturer thereof, accept delivery of and pay for, any Item or Items of Equipment so excluded from the Conditional Sale Agreement, and such Manufacturer and the Lessee shall execute a separate agreement providing for the sale of such excluded Item or Items of Equipment by such Manufacturer to the Lessee upon the same terms and conditions as those contained in the Conditional Sale Agreement, modified only to the extent necessary to provide for payment in cash upon delivery of such excluded Item or Items of Equipment, either directly or indirectly by means of a conditional sale agreement, equipment trust or other appropriate method of financing as the Lessee may determine and as may be reasonably satisfactory to such Manufacturer. Any Item or Items of Equipment as purchased

by the Lessee shall be owned by the Lessee and shall not be leased hereunder, and the Lessor shall have no obligation to the Lessee or the Manufacturer with respect to any such Item excluded under this Section 1.4. The Lessee shall indemnify the Lessor against any loss or liability asserted by the Manufacturers, their successors or assigns, under the Conditional Sale Agreement or otherwise, arising out of any such exclusion.

SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rentals for Equipment. The Lessee agrees to pay the Lessor, on the dates provided in Section 2.2 hereof, the following rentals for each Item of Equipment leased hereunder:

(a) Interim Rental. For each Item of Equipment, an amount per day equal to 0.034101% of the Purchase Price thereof (as defined in Section 3.1 of the Conditional Sale Agreement) for the period, if any, from the Closing Date (as defined in the Participation Agreement) for such Item to but not including the 15th day of the month in which the final Closing Date (as defined in the Participation Agreement) shall occur or, as the case may be, the first day of the following month if said Closing Date shall occur following the fifteenth day of such month but in no case prior to February 15, 1980 or later than April 1, 1980 (said date being herein called the "Term Lease Commencement Date");

(b) Fixed Rental. For each Item of Equipment, 60 consecutive quarterly installments of rental (the "Fixed Rental") payable in arrears, the first 28 installments to be each in an amount equal to 2.9549% of the Purchase Price thereof and the remaining 32 installments to be each in an amount equal to 3.2640% of the Purchase Price thereof.

(c) Supplemental Rental. As the same shall become due and owing hereunder, any and all liabilities, amounts and obligations which the Lessee assumes or agrees to pay hereunder to the Lessor or others, as enumerated in Section 2.3(b) through (e), inclusive, but excluding Fixed Rental and Interim Rental (such amounts sometimes hereinafter referred to as "Supplemental Rental").

2.2. Rental Payment Dates. The installment of Interim Rental for each Item of Equipment shall be due and payable on the Term Lease Commencement Date. The first installment of Fixed Rental for each Item of Equipment shall be due and payable three months following the term Lease Commencement Date and the remaining such installments of Fixed Rental shall be due and payable at three-month intervals thereafter with a final installment due and payable fifteen years following the Term Lease

Commencement Date. If any of the rent payment dates is not a business day, the rent payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Lease, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of Utah, Maryland or Texas are authorized or required to close.

2.3. Place of Rent Payment. The Lessor instructs the Lessee to make all payments due hereunder as follows:

(a) The installment of Interim Rental and each installment of Fixed Rental shall be paid to the Lessor by draft at the address provided for payments in Section 20.1 hereof, identifying the same as a payment of rental relating to KATY No. 79-1; provided that, in the event either the Lessor or the Assignee shall notify the Lessee in writing that the right to receive payment of such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by check at the place designated in such notice or as otherwise designated from time to time in writing by such assignee;

(b) The entire amount of any payment of Casualty Value pursuant to Section 11 hereof shall be paid to the Lessor by draft at the address provided for payments in Section 20.1 hereof (identifying the same as a payment of Casualty Value relating to KATY No. 79-1); provided that in the event either the Lessor or the Assignee shall notify the Lessee in writing that the right to receive payment of such Casualty Value shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by check at the address designated in such notice or as otherwise designated from time to time in writing by such assignee;

(c) The amount of any payment owing to the Lessor pursuant to Sections 6, 10.2, 11.1 (with respect to public liability insurance) and 20.2 hereof and any amounts received pursuant to Section 21 hereof shall be made directly to the party to receive the same without regard to the assignment of this Lease or the payments due hereunder pursuant to Section 16 hereof;

(d) The amount of any interest due in respect of the late payment of any amounts pursuant to Section 19 or 20.1 hereof shall be paid to the party and in the manner herein provided to receive any said amount; and

(e) All payments other than those above specified shall be made by the Lessee directly to the party to receive the same unless any such payment has previously been made by the Lessor or the Assignee, in which case

the Lessee shall reimburse the Lessor or the Assignee, as the case may be, directly for such payment.

The Lessee agrees that it will make payments hereunder where specified above to the party to whom such payment is to be made, by draft of the Lessee drawn on a bank located in the continental United States and mailed to the party to receive the same at the address herein provided or at such other address as the Lessee shall have been provided in writing. Interim and Fixed Rental payments are due and payable on the dates set forth in Sections 2.1 and 2.2 hereof. Payments hereunder will be deemed made when received by the party to whom they are to be made under this Section 2.3.

2.4. Net Lease. This Lease is a net lease and the Lessee's obligation to pay all Interim Rental and Fixed Rental and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of rent or reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16 hereof; 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, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, 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 Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment has been returned to the possession of the Lessor (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Items of Equipment except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 16 hereof for any reason whatsoever.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery and acceptance thereof by the Lessee of such Item of Equipment hereunder in accordance with the provisions of Section 1 hereof and, subject to the provisions of Sections 11, 14 and 18 hereof, shall terminate upon the date occurring 15 years following the Term Lease Commencement Date provided for in Section 2.1(a) hereof.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1. Retention of Title. The Lessor is acquiring legal title to the Equipment as Vendee under the Conditional Sale Agreement (but only upon compliance with all the terms and conditions thereof) and it is understood that the Lessee shall acquire no right, title and interest to the Equipment except hereunder as Lessee notwithstanding the delivery of the Equipment to and the possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment. The Lessee will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

Unit subject to Security Interest of Agent
Bank under Conditional Sale Agreement recorded
with the ICC

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 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 in accordance with a statement of new road numbers to be substituted therefor, which statement previously shall have been delivered to the Lessor and the Assignee by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition Against Certain Designations. 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 equipment used by it of the same or a similar type for convenience of identification of the right of the Lessee to use the Equipment under this Lease.

SECTION 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AND THE LESSOR EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer, provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Item of Equipment or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The Lessee's delivery of a Certificate of Acceptance in accordance with the provisions of Section 1 hereof shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor and any assignee thereof pursuant to Section 16 hereof (including, without limitation, the Assignee) and their respective successors and assigns from and against:

(a) any and all loss or damage to the Equipment, usual wear and tear excepted; and

(b) any claim, cause of action, damages, liability, cost or expense (including, without limitation, counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them (i) relating to any Item of Equipment or any part thereof, including, without limitation, the construction, purchase, delivery, acceptance, rejection, ownership, sale, leasing, return or storage of any Item of Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessee or any indemnified party), (ii) by reason or as the result of any act or omission (whether negligent or otherwise) of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent, trademark or copyright infringements, or (iv) as a result of claims for negligence or strict liability in tort;

provided, however, that the Lessee shall not be required by the provisions of this Section 6.1 to indemnify any such party for any such claim, cause of action, damages, liability, cost or expense which is incurred by reason of the wrongful act of any such party, but the Lessee may not impose the wrongful act of any such party as a defense to the indemnification provided in this Section 6.1 for the benefit of any other such party.

The indemnities and assumptions of liabilities set forth in this Section 6.1 do not guarantee a residual value in the Equipment nor do they guarantee the payment of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement) or any interest accrued thereon.

6.2. Continuation of Indemnities and Assumptions. The indemnities and assumptions of liability in this Section 6 contained (i) shall be paid on an after-tax basis (provided, however, that the Lessor will exercise all reasonable efforts to minimize any increase in state or Federal income taxes which may result from the Lessee's payment of any indemnity hereunder) and (ii) shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumptions of liability shall not apply in respect of any matters referred to in subsection (a) or clause (i), (ii) or (iv) of subsection (b) of Section 6.1 hereof, occurring after the termination of this Lease, except for any such matters attributable to, arising or accruing during the term of this Lease, and except for any such matters occurring after the expiration or earlier termination arising in connection with the Lessee's

assembling, delivering, storing or transporting of the Equipment as provided in Section 13 or 15, as the case may be. The Lessee shall promptly notify the Lessor of any matter which may give rise to a claim or liability against the Lessor or any assignee thereof pursuant to Section 16 hereof. The Lessor shall have the right, but not the obligation, to defend any such matter, subject to the Lessee's approval of the manner in which such defense is made, which approval shall not be unreasonably withheld.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitation, the rules of the United States Department of Transportation, the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time) (the "Interchange Rules") with respect to the use and maintenance of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, additions, replacements and/or modifications (the "Alterations") at its own expense and title thereto shall be immediately vested in the Lessor. In the event the Lessee shall make any Alterations to any Item of Equipment pursuant to this Section 7, the Lessor agrees that the Lessee may take advantage of and claim any and all tax benefits attributable to and arising out of the Lessee's expenditure of funds for the Alteration. To the extent that the Lessee is prevented from claiming or unable to claim any such benefit by tax law, then the Lessor may take advantage of and claim such tax benefit.

SECTION 8. 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 shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange in accordance with the Interchange Rules. Except as required by the provisions of Section 7 hereof, the Lessee shall not modify any Item of Equipment without the prior written authority and approval of the Lessor and any assignee pursuant to Section 16 hereof which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 7 hereof or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 8 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. The Lessee shall make no additions or improvements, other than those referred to in the immediately preceding sentence to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. Title to all additions or improvements which are not deemed necessary to or an integral part of the ordinary operation of such Item and which can be removed from such Item without diminishing or impairing the value or utility which such Item would have had in the absence of such additions or improvements, shall vest in the Lessee upon becoming attached to such Item, subject to a continuing security interest in favor of the Lessor to secure all of the Lessee's obligations under this Lease. The Lessee will deliver to the Lessor such documents as the Lessor shall reasonably request to perfect the Lessor's security interest in such Alterations. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment, the Lessee agrees that it will, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment and repair such damage, if any, caused by such removal.

SECTION 9. 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 any Item of 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, and any other liens or charges which arise by virtue of claims against, through or under any party other than the Lessor, 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 of the Lessor or the security interest of any assignee under Section 16 hereof in and to the Equipment. The Lessee's obligations under this Section 9 shall survive the termination of this Lease.

SECTION 10. FILING; PAYMENT OF STATE AND LOCAL TAXES.

10.1. Filing. The Lessee will, at its sole expense, cause this Lease, the Conditional Sale Agreement and the related Assignment (or a financing statement or similar notice thereof if and to the extent permitted or required by applicable law) to be duly filed, recorded or deposited in such public offices within or without the United States as the Lessor or the Assignee may reasonably request and will furnish the Lessor and the Assignee 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 (including, without limitation, financing and continuation statements or similar notices thereof) required by law or reasonably requested by the Lessor or the Assignee, for the purpose of protecting the Lessor's title to, or the Assignee's security interest in, any Item of Equipment to the satisfaction of the Lessor's or the Assignee'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 and the Assignee proof of such filings. Without limiting the foregoing, the Lessee will take all such other action, including proper notation of the interest of the Lessor in the Equipment and hereunder and the interest of the Lessor and the Assignee under the Conditional Sale Agreement and the related Assignment on any certificate of title from time to time in effect with respect to each Item of Equipment to the extent the same is required by law or reasonably requested by the Lessor's or the Assignee's counsel and will deliver to the Lessor and the Assignee appropriate proof thereof. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and re-recording or depositing and re-depositing of any such instruments or incident to the taking of such action.

10.2. Payment of State and Local Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor, the Manufacturers, and any assignee thereof (including but not limited to the "Assignee") and any Investors pursuant to Section 16 hereof (including, without limitation, the Investors) (the "Indemnitees") for collection or other charges and will be free of expense to the Indemnitees with respect to the amount of any local, state, Federal or foreign taxes (including but not limited to income, franchise, sales or use [other than sales or use taxes included in the Purchase Price], personal property, ad valorem, value added, leasing, leasing use, stamp, license fees or other taxes, levies, charges, gross receipts taxes or withholdings of any nature) (excluding, however, (i) any United States Federal income tax [and, to the extent that any respective Indemnatee receives credit therefor against its United States Federal income tax liability, any foreign income tax of such Indemnatee] payable by any respective Indemnatee in consequence of the receipt of payments provided herein, and (ii) the aggregate of all net income or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which such Indemnatee has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), and any charges, fines or penalties in connection therewith (hereinafter called "Impositions") hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery, earnings, receipts or transfer of title under the terms hereof or the Assignment, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the

payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon the earnings arising therefrom or upon any Indemnitee solely by reason of its interest with respect thereto and will keep at all times all and every part of such Item of Equipment free and clear of all Impositions which might in any way affect the interest of any Indemnitee therein or result in a lien upon any such Item of Equipment; provided, however, that the Lessee shall be under no obligation to pay any Impositions so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the reasonable opinion of the Indemnitee, adversely affect the interest of any Indemnitee hereunder or under the Assignment. If any Impositions shall have been charged or levied against any Indemnitee directly, prior to making payment therefor, such Indemnitee shall promptly notify the Lessee of the Impositions charged or levied, and the Lessee shall have the opportunity to contest in good faith and by appropriate legal proceedings such Impositions, at its sole expense. If such Impositions are paid by such Indemnitee after such Indemnitee shall have given written notice thereof to the Lessee and the same shall have remained unpaid for a period of fifteen business days thereafter, the Lessee shall reimburse such Indemnitee on presentation of invoice therefor. The amount of payment or reimbursement by the Lessee with respect to any Imposition shall include all state and Federal taxes required to be paid by any Indemnitee in respect of the receipt of such payment or reimbursement.

In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either prepare and file such reports in such manner as to show as required the interests of each Indemnitee in such Items of Equipment or, if it shall not be permitted to file the same, it will notify each Indemnitee of such reporting requirements, prepare such reports in such manner as shall be satisfactory to each Indemnitee and deliver the same to each Indemnitee within a reasonable period prior to the date the same is to be filed.

In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration or earlier termination of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

10.3. Sales Tax Indemnity. Notwithstanding any other provisions in any of the Operative Agreements to the contrary, the Lessee covenants, for the benefit of the Manufacturer, that the Lessee will indemnify and hold the Manufacturer harmless from any sales taxes, including interest and penalties, which might be imposed in respect of the sale of the items of Equipment pursuant to the Conditional Sale Agreement.

SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

11.1. Insurance. The Lessee agrees that it will at all times during the term of this Lease and during any return and storage period hereunder and at its own cost and expense keep each Item of Equipment insured against loss by fire, windstorm and explosion and with extended coverage and against such other risks as are customarily insured against by railroad companies at not less than the Casualty Value of such Item of Equipment as of the next following date of payment thereof and will maintain general public liability insurance with respect to the Equipment against damage because of bodily injury, including death, or damage to property of others, such insurance to afford protection to the limit of not less than \$25,000,000 in the aggregate in any single occurrence. Any such property insurance may have deductible provisions to no greater extent than are customary with railroad companies in the aggregate in any single occurrence, and any public liability insurance may have deductible provisions to no greater extent than are customary with railroad companies in the aggregate in any single occurrence. All such insurance shall cover the interest of the Lessor and any assignee thereof (including, without limitation the Assignee and the Investors) and the Lessee, as their interests may appear, in the Equipment or, as the case may be, shall protect the Lessor and any assignee thereof (including, without limitation, the Assignee and the Investors) and the Lessee, in respect of risks arising out of the condition, maintenance, use, ownership and operation of the Equipment and shall provide that proceeds, if any, in respect to the Equipment shall be payable to the Lessee, the Lessor and the Assignee as their respective interests may appear. All policies of insurance maintained pursuant to this Section shall provide therein or by endorsement that 30 days' prior written notice of cancellation shall be given to the Assignee and the Lessor. As to the interest of the Lessor or the Assignee therein, no such insurance shall be invalidated by any foreclosure or other remedial proceedings or notices thereof relating to the Equipment or any interest therein nor by any change in the title or ownership of the Equipment or any interest therein or with respect thereto or by the use or operation of the Equipment for purposes more hazardous than is permitted by such policy. The Lessee warrants and affirms that it will satisfy all obligations under such policy necessary to keep such insurance in full force and effect. No such policy shall require co-insurance. The Lessee shall be deemed to have complied with the requirement to maintain property insurance as set forth if it shall (i) maintain a blanket policy covering all of the Items of Equipment then subject to this Lease without naming the Lessor or the Assignee as additional assureds for an aggregate amount of not less than \$4,000,000 per occurrence with deductible provisions to no greater extent than are customary with railroad companies in the aggregate in any single occurrence, which policy may also insure all other rolling stock and property of the Lessee, so long as such blanket policy shall not otherwise conflict with the provisions of this Section 11.1, and (ii) shall maintain with respect to the Equipment

then subject to this Lease a policy covering such Equipment for an aggregate amount of not less than \$750,000 per occurrence with deductible provisions to no greater extent than \$150,000, or if such deductible becomes unobtainable, in such amount nearest \$150,000 as shall be obtainable, in which case notice of the new deductible amount shall be given to the Lessor, the Assignee and the Investors. Upon receipt by the Lessee of notice of the assignment of this Lease and the rents and other sums payable hereunder pursuant to Section 16 hereof, the Lessee shall cause the property insurance on the Equipment referred to in clause (ii) in the immediately preceding sentence to provide that the proceeds, if any, shall be payable to the Assignee under a standard mortgage loss payable clause satisfactory to the Lessor, the Lessee, the Investors and the Assignee. The loss under the policy referred to in clause (ii) above, if any, shall be adjusted only with the approval of the Lessee, the Lessor and the Assignee. The Lessee shall further furnish the Lessor, and the Assignee with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal policy or policies shall furnish certificates or binders evidencing such renewal as soon as practicable but in no event later than 90 days after the expiration date of this original policy or policies. All insurance provided for in this Section shall be effective with insurance companies or insurers having all necessary power and authority to furnish the required coverage.

The proceeds of any property insurance received by the Lessor, or the Assignee shall be held by such party until the repairs referred to in clause (i) below are made as specified therein or payment of the Casualty Value is made, but in no case longer than one year and will be paid to the Lessee either (i) upon a written application signed by the Lessee for payment of, or to reimburse the Lessee for payment of, the costs of repairing or restoring the Item of Equipment which has been lost or damaged (which application shall be accompanied by satisfactory evidence of such cost and the completion of such repair or restoration), or (ii) if this Lease is terminated with respect to such Item of Equipment because of a Casualty Occurrence promptly upon payment by the Lessee of the Casualty Value; provided that, if the Lessee is at the time of the application in default in the payment of any other liability of the Lessee to the Lessor hereunder, such proceeds may be applied against such liability.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the reasonable opinion of the Lessee, irreparably damaged or permanently rendered unfit for use from any cause whatsoever during the term of this Lease or thereafter while such Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or title or use thereof or shall be requisitioned or taken by any governmental authority under the power of eminent domain or otherwise during the term of this Lease for a stated period which exceeds the then remaining term

of this Lease (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and any assignee thereof pursuant to Section 16 hereof in regard thereto (including, without limitation, the Assignee) and shall pay the Casualty Value (as defined in Section 11.6 hereof) of such Item in accordance with the terms of Section 11.3 hereof.

11.3. Sum Payable for Casualty Loss. The Lessee, on the Term Lease Commencement Date or next succeeding Fixed Rental payment date or the last day of the term of this Lease, as the case may be, following its determination that a Casualty Occurrence has taken place with respect to any Item or Items of Equipment, shall pay to the Lessor (i) any rentals or other sums due prior to such date then remaining unpaid, plus (ii) a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment, plus (iii) if such payment is made on the Term Lease Commencement Date, the Interim Rental installment due on such date in respect of such Item.

11.4. Rent Termination. Upon (and not until) payment of all sums required to be paid pursuant to Section 11.3 hereof in respect of any Item or Items of Equipment, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty, express or implied (including, without limitation, those representations and warranties expressly disclaimed in Section 5 hereof). As to each separate Item of Equipment so disposed of, the Lessee may, so long as no Event of Default shall have occurred and be continuing hereunder, retain all amounts arising from such disposition plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence plus any requisition or condemnation payments or awards up to the Casualty Value attributable thereto and actually paid by the Lessee pursuant hereto and shall remit the excess, if any, to the Lessor. In disposing of such Item of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item of Equipment. Upon the Lessee's request, the Lessor shall provide the Lessee with a bill of sale or any other documents reasonably necessary for the Lessee's disposition of the Items suffering a Casualty Occurrence.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the

Casualty Occurrence) equal to that percentage of the Purchase Price of such Item of Equipment set forth in the Schedule of Casualty Value attached hereto as Schedule B opposite such date of payment.

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and all rental installments and other sums due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this Lease the use of or title to any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay all installments of rental and other sums shall continue for the duration of such requisitioning or taking. Subject to the implied condition set forth in Section 20.8 hereof, 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. If at the end of the then current term of this Lease any Item of Equipment is then owned or held by any governmental authority under the power of eminent domain or otherwise and this Lease shall not then be renewed pursuant to Section 18 hereof, from and after such date the Lessor shall be entitled to receive and retain for its own account all sums payable by such governmental authority as compensation for requisition or taking of possession.

SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before the first May 1 which occurs more than twelve months following the date of this Lease and annually thereafter, the Lessee will furnish to the Lessor and any assignee thereof pursuant to Section 16 hereof (including, without limitation, the Assignee) an accurate statement, as of the preceding December 31 (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 12 months ending on such December 31 (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the 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 Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor and any assignee thereof pursuant to Section 16 hereof (including, without limitation, the Assignee and any Investor) each shall have the right, at their respective sole cost and expense, by their respective authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such time as shall be reasonably necessary to confirm thereto the existence and proper maintenance of the Equipment during the continuance of this Lease.

12.3. Other Reports. The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Equipment or the interest of the Assignee therein or the leasing thereof to the Lessee.

SECTION 13. 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 permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such period to any reasonable place on any railroad lines operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee, and the insurance requirements contained in Section 11.1 hereof shall continue to apply throughout such period of movement and storage. During any such storage period and during normal business hours, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Item, to inspect the same and authorized representatives of the Lessee shall be permitted to be present at any such inspection; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser or lessee, the rights of inspection granted under this sentence. All amounts earned in respect of the Equipment after the date of expiration of this Lease and prior to the date the Equipment has been assembled, delivered and stored pursuant hereto shall belong to the Lessee. In the event any Item of Equipment is not on the date of the expiration of this Lease assembled, delivered and stored as hereinabove provided, the Lessee shall pay to the Lessor an amount equal to .0333% of the Purchase Price of such Item of Equipment for each day from but excluding such expiration date to but not including the date upon which the Item is so assembled, delivered and stored; provided, however, if such Item of Equipment

is not assembled, delivered and stored within 90 days following the expiration of this Lease, the Lessee shall pay to the Lessor an amount equal to .0417% of the Purchase Price of such Item of Equipment from but excluding said 90th day to but not including the date upon which the Item is so assembled, delivered and stored. 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.

SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Default shall be made in the payment of any part of the rental or Casualty Value provided in Section 2 or 11 hereof and such default shall continue for ten days;

(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;

(c) Any representation or warranty made by the Lessee herein or in the Participation Agreement or in any statement or certificate furnished to the Lessor, the Assignee or any Investor pursuant to or in connection with this Lease or the Participation Agreement proves untrue in any material respect as of the date of issuance or making thereof;

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

(e) Any holder of Funded Debt (as defined below) of the Lessee or a trustee for such holder shall cause to be accelerated the payment thereof prior to its stated maturity or its regularly scheduled dates of payment, in such case upon the happening of a default or event, and following such giving of notice and/or the continuance of such period of time, if any, as shall permit such acceleration or termination or the initiation of such proceedings;

(f) Any other proceedings shall be commenced by or against the Lessee for any relief which includes, or

might result in, any modification of the obligations of the Lessee hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all such obligations 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 (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings, in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such appointment, if any, or 90 days after such proceedings shall have been commenced, whichever shall be earlier; or

(g) A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 is at any time amended, whether pursuant to the Bankruptcy Reform Act of 1978 or subsequent amendments thereof, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by such trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier, and all other conditions of 11 USC 1168(a) have been met.

"Funded Debt" of the Lessee shall mean any indebtedness thereof for borrowed money, whether incurred or assumed or indebtedness which has been incurred or assumed in connection with the acquisition of property or assets (including any deferred portion of the purchase price thereof) which in any case has an unpaid principal balance of more than \$1,000,000 and has a stated maturity of (or is renewable or extendible at the option of the obligor for a period or periods extending) more than 12 months from its date of origin, including the current maturities thereof.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor or, in the event this Lease shall be assigned to an assignee pursuant to Section 16 hereof, such assignee, 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, including reasonable attorneys' fees; and/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 the Items of Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors, assigns or sublessees, to use such Items for any purpose whatever, but the Lessor or such assignee, as the case may be, shall nevertheless have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor or such assignee as the case may be, in its sole discretion, shall specify: (x) a sum with respect to each Item of Equipment which represents the excess of the present worth, 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 worth 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 or such assignee, as the case may be, reasonably estimates to be obtainable for the use of such Item during such period, such present worth to be computed in each case on a basis of a 5% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or (y) an amount equal to the excess if any of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over

the amount the Lessor or such assignee, as the case may be, reasonably estimates to be the Fair Market Value thereof at such time; provided, however, that in the event the Lessor or such assignee, as the case may be, shall have sold any Item of Equipment, such party, in lieu of collecting any amounts payable thereto by the Lessee pursuant to the preceding clauses (x) and (y) of this part (i) with respect thereto may, if it shall so elect, demand that the Lessee pay such party and the Lessee shall pay to such party, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the net proceeds of such sale, and (ii) any damages and expenses, other than for a failure to pay rental, in addition thereto, including reasonable attorneys' fees, which the Lessor or such assignee, as the case may be, shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

For purposes of Section 14.2 above, the Fair Rental Value and Fair Market Value for any Item of Equipment shall be determined in the appraisal arrangements specified in Section 18.3 hereof; provided that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item.

14.3. Cumulative Remedies. 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 offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

14.4. Failure to Exercise Rights. The failure of the Lessor or such assignee, as the case may be, 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.

14.5. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor and the Assignee, promptly upon

any responsible officer becoming aware of any material condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof and indicating the intention or expectation of the Lessee as to the disposition thereof. For the purposes of this Section 14.5 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. If the Lessor or any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Assignee) shall terminate this Lease pursuant to Section 14 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; provided that, in the event the Lessor shall designate storage tracks which are then unavailable either because such tracks are then being used to store equipment owned by a third party pursuant to a contractual obligation of the Lessee to provide storage therefor or because the storage of the Items of Equipment on such tracks would materially impair the ability of the Lessee to meet its obligations to perform services as a common carrier to the public, then the Lessee agrees to so store the Items of Equipment upon such other storage tracks as shall then be so available and nearest to such storage tracks designated by the Lessor;

(b) Permit the Lessor to store such Equipment in such reasonable storage place on the Lessee's lines of railroad without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor; and

(c) Transport each Item of Equipment one time to any place on the Lessee's lines of railroad or

to any connecting carrier for shipment, all as the Lessor may direct in writing.

All amounts earned in respect of the Equipment after the date of termination of this Lease, but not exceeding the rental, per diem, or other similar charge for equipment received therefor, shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the expiration of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the higher of (i) an amount equal to 0.0363% of the Purchase Price of such Item of Equipment, or (ii) the Fair Rental Value (determined in the manner provided in Section 18 hereof) for such Item for each such day exceeds the amount, if any, received by the Lessor (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence. 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.

15.2. Specific Performance. 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.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and all other sums due or to become due hereunder may be assigned in whole or in part by the Lessor to the Assignee without the consent of the Lessee, but the Lessee shall be under no obligation to the Assignee except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of the Assignee. Without

limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of the Assignee in and to the sums payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause 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, whosoever 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, (ii) the Assignee shall, if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, 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 (except those rights, privileges and remedies relating to amounts payable to the Lessor pursuant to Sections 6, 10.2, 11.1 [with respect to public liability insurance] and 20.2 hereof and any amounts received pursuant to Section 21 hereof which shall remain enforceable by the Lessor), but if no Event of Default or event which with the lapse of time or giving of notice, or both, would constitute an Event of Default, shall have occurred and be continuing, the Assignee and the Lessor may each exercise their respective rights, privileges and remedies stated in this Lease to be provided for their respective benefits, and (iii) all obligations of the Lessor to the Lessee under this Lease shall be and remain enforceable by the Lessee against, and only against, the Lessor.

It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the rents and other sums due and to become due hereunder shall by the express terms granting and conveying the same be subject to the interest of the Lessee in and to the Equipment.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION; PRIORITY.

17.1. Lessee's Rights to the Equipment. So long as no Event of Default shall have occurred and be continuing, 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, except to the extent permitted by the provisions of Section 17.2 hereof, assign, transfer, sublease 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 provisions of Section 17.2 hereof. No assignment or sublease entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligation hereunder which shall be and remain those of a principal and not a surety.

17.2. Use and Possession in Railroad Operations. 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 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 any Item of Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and upon the written consent of the Lessor, the Investors and any successors or assigns thereof, to sublease the Equipment, but only upon and subject to all the terms and conditions of this Lease. Provided, however, that the Lessee shall at no time throughout the term of this Lease assign, sublease or permit the assignment, sublease or use of any Item of Equipment to service (including, without limitation, the regular operation or maintenance thereof) outside the continental United States, and the Lessee agrees that the use of the Equipment outside the continental United States shall be de minimus; and provided further however, that every sublease hereunder shall be expressly subordinate to the rights and remedies of the Lessor and any assignee thereof under this Lease in respect of the Items covered by such sublease and shall be assigned to the Lessor or its assignee as additional security for the satisfaction of the Lessee's obligations hereunder. Notwithstanding any such sublease, the Lessee shall remain fully liable for its obligations hereunder.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all of the property of the Lessee, provided that such assignees, successors or transferees shall have duly assumed the obligations of the Lessee hereunder and that they will not, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, be in default under any provision of this Lease and that such merger or consolidation or acquisition of properties shall not alter in any

way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

SECTION 18. PURCHASE OPTION; RENEWAL OPTIONS.

18.1. Purchase Option. Provided that no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall have the following option to purchase:

(a) The Lessee shall have the right to purchase all but not less than all of the Items of Equipment then leased hereunder at the expiration of the original term or of any renewal term hereof at a price equal to the Fair Market Value of such Items of Equipment. The Lessee shall give the Lessor written notice at least 180 days prior to the end of the original term or renewal term, as the case may be, of its election to exercise the purchase option provided for in this Section. Payment of the option price shall be made upon the date of expiration of the Lease at a place designated in writing to the Lessee by the Lessor in funds there current against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters (including, without limitation those warranties expressly disclaimed in Section 5 hereof).

(b) Notwithstanding any election of the Lessee to purchase as provided in this Section 18.1, the provisions of Section 11 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Items of Equipment purchased by the Lessee upon such date unless the purchase price has been agreed upon by the parties pursuant to this Section 18.1, in which event the amount payable under Section 11 hereof shall be the greater of the amount otherwise payable under said Section 11 or such purchase price.

18.2. Renewal Options. Provided that no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee shall have the option to renew and extend this Lease as to all, but not less than all, of the

Items of Equipment then leased hereunder for five one-year renewal terms, upon and subject to the terms and conditions herein contained for the original term of this Lease; provided that the Fixed Rental payable for and during each renewal term shall be an amount equal to the Fair Rental Value of such Items of Equipment and the Casualty Value in force throughout each renewal term shall be the higher of (i) the Fair Market Value thereof determined at the commencement of such renewal term, or (ii) a value, not to exceed 20%, to be computed at the commencement of such renewal term which, when taking into account all rentals received by the Lessor in any prior renewal term, will be sufficient to maintain the Lessor's after-tax rate of return and annual after-tax cash flows. Each renewal term shall commence immediately upon the expiration of the preceding term. The Lessee shall give the Lessor written notice of any such election at least 180 days prior to the commencement of any renewal term provided for in this Section 18.2.

18.3. Appraisal Procedure. The Fair Rental Value or Fair Market Value, as the case may be, of the Items of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee or buyer, as the case may be (other than a lessee or buyer, as the case may be, currently in possession) and an informed and willing lessor or seller, as the case may be, under no compulsion to lease or sell, as the case may be. If on or before 90 days prior to the date of commencement of the renewal term elected by the Lessee or the end of the term in which the option to purchase shall have been elected, as the case may be, the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value or the Fair Market Value of such Items of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean any independent appraiser mutually agreed upon by the Lessor and the Lessee or if no such mutual agreement is reached within 15 days after the beginning of such 90-day period, two independent appraisers, one chosen by the Lessor and one chosen by the Lessee, or, if such appraisers cannot agree on the amount of such value within 60 days prior to the date of commencement of the renewal term elected by the Lessee, an independent appraiser to be chosen by the American Arbitration Association promptly thereafter. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

18.4. Delivery of Equipment. Unless the Lessee has elected to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 18, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the then current renewal term, as the case may be, in accordance with Section 13 hereof.

18.5. Additional Purchase Option During Initial Lease Term. Provided that no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, in addition to the purchase option available to the Lessee pursuant to Section 18.1 hereof, the Lessee shall have the following additional options to purchase the Equipment in accordance with and subject to the following terms and conditions:

(a) The Lessee shall have the right to purchase all, but not less than all, of the Items of Equipment then leased hereunder on any one of the three dates set forth in Schedule D hereto. The Lessee shall give the Lessor written notice at least 180 days prior to any such date of its election to exercise the purchase option on such date. The Lessee shall further provide copies of such notice to the Assignee and the Investors at their respective addresses provided for notices thereto under the Participation Agreement. The purchase price for such Items of Equipment shall be the sum of (i) the balance of the Conditional Sale Indebtedness and accrued interest thereon, if any, which the Lessee then obligates itself to pay pursuant to Section 18.5(b) hereof, plus (ii) the greater of (A) the difference between (1) the Fair Market Value of the Equipment as of such date of purchase determined in the manner set forth in Section 18.3 hereof (but taking into account any increase in value attributable to the existence of this Lease were it to continue to the end of the 15-year term), and (2) the aggregate amount of Conditional Sale Indebtedness and accrued interest, if any, thereon following the payment on such date by the Lessee of the installment of Fixed Rental due on such date and the application thereof to the payment of Conditional Sale Indebtedness and interest thereon pursuant to the Conditional Sale Agreement, and (B) the Minimum Price set forth opposite such date of purchase in Schedule D hereto (such greater amount being hereinafter referred to as the "Cash Payment"). On such date of purchase the Lessee must pay to the Lessor an amount equal to the Fixed Rental installment due on such date plus the Cash Payment.

(b) As a condition to the right of the Lessee to exercise the purchase option set forth in this Section 18.5 and to obtain title to the Items of Equipment then leased hereunder, the Lessee shall assume, to the reasonable satisfaction of the Assignee and the Investors, the payment when due in full of all remaining unpaid installments of Conditional Sale Indebtedness and interest accrued from time to time thereon pursuant to the Conditional Sale Agreement (including without limitation Casualty Payments pursuant to Section 6 thereof) and the performance by the Lessee

of all of the obligations of the Lessor under the Conditional Sale Agreement as well as all of those obligations of the Lessee under this Lease which accrue to the benefit of the Assignee or the Investors, except the obligation to pay installments of rental and Casualty Value. The Lessee agrees that it will execute and deliver such instruments of assumption as the Lessor, the Assignee or the Investors shall reasonably request concurrently with the purchase of Equipment pursuant to this Section 18.5, and any other documents that the Lessor may reasonably request to terminate and release the Lessor from all further obligations as to the Equipment, this Lease or the Conditional Sale Agreement.

(c) Payment of the Option Price provided for in Section 18.5(a) above and delivery of the instruments of assumption referred to in Section 18.5(b) above shall be made on the date of purchase designated in the notice of exercise of such option at the principal office of the Assignee. Concurrently with such payment and delivery the Lessor will deliver to the Lessee a bill of sale transferring and assigning thereto all right, title and interest of the Lessor in and to such Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor, except the rights and interests of the Assignee under the Conditional Sale Agreement and liens and claims which the Lessee assumes or is obligated to discharge under the terms of this Lease. Neither the Lessor, the Lessee nor any Investor shall be required to make any representation or warranty as to the condition of the Equipment or any other matters. The Lessee agrees to pay to the Lessor, the Assignee and the Investors all reasonable costs and expenses, including fees of counsel, accountants or other parties reasonably consulted, incurred directly or indirectly in connection with an exercise by the Lessee of such option to purchase. Upon payment of the Option Price and delivery of such instruments of assumption and payment of such costs and expenses, this Lease shall terminate except to the extent, if any, to which certain terms and provisions hereof shall be agreed under such instruments of assumption to continue in full force and effect for the benefit of the Assignee and/or the Investors.

(d) Notwithstanding the foregoing provisions of this Section 18.5, the Lessee may, following its election to purchase Equipment as provided in this Section, upon not less than 45 days prior to the date previously designated as the date upon which the Lessee shall purchase the Equipment, rescind such election to purchase. In case of such rescission, the Lessee shall

be relieved of all obligations in connection with such purchase otherwise provided in this Section, except that the Lessee shall pay all costs and expenses of the Lessor, the Assignee and the Investors as herein provided. In the event the Lessee shall rescind any option to purchase and one or more additional option dates set forth in Schedule A hereto shall not then have expired, the Lessee may exercise each and all of its purchase option rights on such remaining date or dates as if no such prior election and rescission had occurred.

SECTION 19. INTEREST ON OVERDUE RENTALS.

Anything to the contrary herein contained notwithstanding any nonpayment of rent due hereunder shall result in the additional obligation on the part of the Lessee to pay also an amount equal to 11-3/4% per annum (or the lawful rate, whichever is less) on the overdue rentals for the period of time during which they are overdue.

SECTION 20. MISCELLANEOUS.

20.1. 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: First Maryland Leasecorp
25 South Charles Street
Baltimore, Maryland 21203
Attention: Michael T. Pyles
Vice President

If to the Lessee: Missouri-Kansas-Texas
Railroad Company
701 Commerce Street
Dallas, Texas 75202
Attention: Executive Vice
President-Financial

or addressed to any such party at such other address as such party shall hereafter furnish to such other parties in writing.

20.2. Right of Lessor to Perform. If the Lessee shall fail to comply with any of its covenants herein contained, either the Lessor or, in the case of an assignment by the Lessor pursuant to Section 16 hereof, the assignee thereunder may, but shall not be obligated to, make advances to perform the same and to take all such action as may be necessary to obtain such performance. Any payment so made by any such party and all cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the party making the same upon demand as additional rent hereunder, with interest at the rate of 12% per annum.

20.3. 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 counterparts shall constitute but one and the same instrument.

20.4. Law Governing. This Lease shall be construed in accordance with the laws of the State of Texas; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

20.5. Notices, etc. to Assignee. Any provision in this Lease which shall require the giving of notice or the delivery of any of any report or other item to the Assignee or the obtaining from the Assignee or the holders of the Conditional Sale Indebtedness of any consent or waiver shall be void and of no further force and effect from and after the payment in full of the entire balance of principal and accrued interest on the Conditional Sale Indebtedness.

20.6. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

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

20.8. Payments to Lessee. Payment of any amounts which may become payable by the Lessor to the Lessee, from time to time, pursuant to the provisions of this Lease, is subject to the implied condition precedent that no Event of Default (or any event which with lapse of time or giving of notice, or both, would become an Event of Default) shall then have occurred and be continuing. Such amounts shall not be paid to the Lessee because of the existence of an Event of Default (or of any event which after lapse of time or the giving of notice or both would become an Event of Default) and shall be held by the Lessor as security for all obligations of the Lessee under this Lease, and either applied by the Lessor to the satisfaction of such obligations, or paid to the Lessee, as and when the Lessor in the exercise of its discretion, may decide.

20.9. Successors and Assigns. Subject to the provisions of Sections 16 and 17 hereof, this Lease shall be binding upon, and shall insure to the benefit of, the parties hereto, their respective successors and assigns.

SECTION 21. TAX INDEMNITY.

21.1. Tax Benefits. This Lease is entered into with the understanding that the Lessor shall be entitled, among other

benefits, to claim the following enumerated income tax deductions, credits and other benefits as are provided to an owner of property (herein, the "Tax Benefits"):

(a) The deduction for accelerated depreciation ("Depreciation Deduction") on each Item of Equipment under the Internal Revenue Code of 1954 (the "Code"), based upon an asset depreciation range (or depreciable life) of 12 years under asset guideline class number 00.25 as described in Revenue Procedure 77-10, 1977-1 Cum. Bull. 548, use of a double declining balance method of depreciation switching to sum-of-the years digits when most beneficial to the Lessor and use of the half year depreciation convention as provided in Treasury Regulation 167(a)-11(c)(2); and

(b) The deduction under Section 163 of the Code ("Interest Deduction") in the full amount of any interest paid or accrued by the Lessor in accordance with the Lessor's method of accounting for tax purposes with respect to any indebtedness incurred by the Lessor in financing its purchase of each Item of Equipment.

21.2. Lessee's Warranties and Representations. The Lessee hereby warrants and represents to the Lessor:

(a) Each Item will: (i) at the time the Lessor becomes the owner thereof, constitute "New Section 38 property" within Section 48(b) of the Code; (ii) at all times during the term of this Lease constitute "Section 38 property" within the meaning of Sections 48(a) and 48(b) of the Code, and (iii) at all times of delivery of the Equipment to, and the acceptance of the Equipment by, the Lessee hereunder, not have been placed in service by the Lessee or any other person so as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and

(b) Neither the Lessee nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns, reports or other documents inconsistent with the foregoing, and each of such corporations will file such returns and reports, take such actions, execute such documents, and maintain sufficient records as may be reasonable and necessary to facilitate accomplishment of the foregoing. Upon request of the Lessor, the Lessee will provide to the Lessor written reports verifying and establishing the compliance of the Lessee with this Section 21. The Lessee agrees to furnish such documents, records and representations, including, but not limited to, evidence by the Lessee of the estimated useful life and estimated residual value of each Item of Equipment sufficient to support the matters set forth in Section 21.1 hereof, as shall be reasonably requested by the Lessor and necessary and appropriate.

21.3. Records. The Lessee further agrees to maintain sufficient records to establish the extent to which the income from and deductions with respect to the Items of Equipment are derived from, or allocable to, sources within the United States

of America and to furnish such records to the Lessor within thirty (30) days after receipt of a written demand therefor.

21.4. Payments. (a) (i) If the Lessor, for any taxable year (or portion thereof) during the term of the Lease, including the initial and any renewal term, shall as a direct result of the events or actions set forth in subsection 21.4(b) below, lose the benefit of or the right of or the right to claim or there shall be disallowed or recaptured all or any portion of the Depreciation Deduction or the Interest Deduction, then, subject to the exceptions in subsection 21.5(b) and the rights of the Lessee and the Lessor to contest such loss as set forth in Section 21.6, the Lessee shall pay to the Lessor on each Fixed Rental payment date during the remaining term of the Lease, including the initial and any renewal term, as Supplemental Rent under this Lease, an amount which will result, in the Lessor's reasonable judgment, after due consultation with the Lessee, in preserving for the Lessor the after-tax rate of return and annual after-tax cash flow that would have been realized by the Lessor if such loss had not occurred, based on the rates of Federal, state and local taxes on, or measured by, the net income of the Lessor from time to time but not more (nor less) than such after-tax rate of return and annual after-tax cash flow that would have been realized on the basis and assumptions (including, without limitation, income tax rates) used by the Lessor in originally evaluating this transaction; and

(ii) The amount of each payment of indemnity payable pursuant to this subsection 21.4(a) with respect to loss shall (A) reflect the amount of interest, additions to income tax and penalties payable to the Lessor with respect to such loss, and (B) reflect the amount of Federal, state and local taxes on, or measured by, the net income of the Lessor, interest, additions to income tax and penalties incurred by the Lessor as a result of the receipt of such indemnity payment. The Lessee's representations, warranties and indemnifications with respect to the estimated net salvage value assumptions for the Lessor's tax depreciation purposes set forth in Section 21.1 hereof, shall not be construed in any manner whatsoever as implied, granting a purchase option to the Lessee.

(b) The Lessee shall be required to pay the Lessor the amounts provided for in subsection 21.4(a) above if the loss, recapture, failure to receive or disallowance shall result from the occurrence of any of the following events or causes:

(i) the "original use" of the Item of Equipment being deemed to commence within the meaning of Section 167(c)(2) of the Code prior to acceptance by the Lessor or the transfer to it of title to the Items of Equipment;

(ii) any part of the Lessor's Cost of an Item or Items of Equipment not being deemed part of the cost basis for the purpose of depreciating the Items of Equipment on the date of delivery of such Items of Equipment;

(iii) any statement in any letter or document furnished to the Lessor in connection with this transaction by the Lessee (or any officer, agent or employee thereof) proving to be fraudulent, untrue, incorrect or inaccurate;

(iv) any alteration or modification in or addition to the Equipment made by the Lessee or by any sublessee to the Equipment;

(v) any determination by the Internal Revenue Service that the transaction contemplated by this Lease was not effective to vest ownership of the Equipment in the Lessor for purposes of claiming the Tax Benefits with respect thereto under tax laws, regulations and rulings in effect as of the First Delivery Date (as defined in the Participation Agreement);

(vi) the Equipment being "used by an organization, which is exempt from (Federal Income Tax)" within the meaning of Section 48(a)(4) of the Code, or "used by the United States, any state or political subdivision thereof, any international organization or any agency or instrumentality of any of the foregoing" within the meaning of Section 48(a)(5) of the Code; or

(vii) any other act or failure to act of the Lessee under this Lease or with respect to the transactions contemplated hereby.

21.5. Changes in Law and Exceptions to Payment. (a) Notwithstanding the provisions of Section 21.4 hereof, if for any reason (other than those set forth in subsections 21.4(b) and 21.5(b) hereof) including, without limitation, a change in or a modification of Federal income tax laws and regulations, the Tax Benefits or either of them, are lost or disallowed to the Lessor by the Internal Revenue Service and consistent with or by reason of such loss by or disallowance to the Lessor, either or both of such Tax Benefits, were allowable to and resulted in realized tax benefits to the Lessee for the year in which the Items of Equipment were first placed in service and/or years subsequent thereto (herein, the "Lessee's Benefits"), the Lessee shall be obligated to indemnify the Lessor in the manner set forth in subsection 21.4(a) hereof to the extent of the Lessee's Benefits; and

(b) The Lessee shall not be required to indemnify the Lessor as provided for in subsections 21.4(a), 21.4(b) and 21.5(a) above with regard to either Tax Benefit if the loss, recapture, failure to receive or disallowance shall result from the occurrence of any of the following events or causes:

(i) The Lessor shall fail to claim the Tax Benefits in its income tax returns for the appropriate years or shall fail to follow the proper procedures in claiming the Tax Benefits and such failure to claim or follow such procedures, as the case may be, shall preclude the Lessor from claiming the Tax Benefits;

(ii) The Lessor shall not have sufficient income tax liability to benefit from the Tax Benefits;

(iii) At any time when no Event of Default shall have occurred and be continuing, without the written consent of the Lessee, the Lessor shall voluntarily transfer legal title to such Items of Equipment to any person, or the Lessor shall dispose of or reduce its interest in such Items of Equipment, and such transfer, disposition or reduction in interest shall be the direct cause of such loss, or any transfer or disposition by the Lessor resulting from bankruptcy or other proceedings for relief of debtors in which the Lessor is the debtor, whether voluntary or involuntary, of any interest in the Items of Equipment;

(iv) Any change in the applicable corporate income tax law, regulations or rulings effective on or after the date of delivery of an Item of Equipment;

(v) The Lessee shall have paid to the Lessor the Casualty Value for the Items of Equipment pursuant to Section 11.3 of this Lease;

(vi) Any loss resulting from the Lessor's selection of a non-corporate form of property ownership, if the Lessor so selects; or

(vii) Any other action or omission of the Lessor under this Lease or with respect to the transactions contemplated hereby.

21.6. Contest Rights. In the event a claim shall be made by the Internal Revenue Service as a result of the occurrence of any of the events or causes enumerated in Section 21.4(b) which, if successful, would result in a loss as to the Lessor of the Interest Deduction or the Depreciation Deduction, as the case may be, the Lessor hereby agrees to notify the Lessee promptly of such claim; to forbear payment of the income tax claimed for at least thirty (30) days after the giving of such notice, to give the Lessee any relevant information requested by the Lessee relating to such claim which may be particularly within the knowledge of the Lessor and, if the Lessee shall within thirty (30) days after such notice request the Lessor to contest such claim, then the Lessor shall take such action in connection with contesting such claim as the Lessee shall reasonably request in writing from time to time, but only if the Lessee shall, contemporaneously with such initial request, have (a) made provision for the Lessor's indemnification in a manner reasonably satisfactory to the Lessor for any liability or loss which the Lessor may from time to time

incur as a result of contesting such claim and reimbursement for all costs and expenses, including (without limitation) reasonable legal fees and expenses which the Lessor may incur in connection with contesting such claim, and (b) furnished the Lessor with an opinion of independent tax counsel, satisfactory to the Lessor, to the effect that a reasonable basis exists to contest such claim; provided, however, that at any time after having received such request from the Lessee, the Lessor, at its sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim if the Lessor either pays the tax claimed and sues for a refund in the appropriate United States District Court or in the United States Court of Claims, as the Lessor shall elect, or contests such claim in the United States Tax Court, considering, however, in good faith such request as the Lessee shall make concerning the most appropriate forum in which to proceed; provided, further, however, that if the Lessor elects to so pay the tax claimed and sue for a refund, no Supplemental Rent shall be payable in respect thereof pursuant to Section 21.4 hereof unless and until such District Court or Court of Claims, as the case may be, renders final judgment against the Lessor. Notwithstanding the payment of such Supplemental Rent pursuant to the second proviso to the immediately preceding sentence, the Lessee shall have the right, subject to the provisions of clauses (a) and (b) above, to compel the Lessor, at the Lessee's expense to appeal the final judgment giving rise to the obligation to pay such Supplemental Rent. The Lessee agrees to consider in good faith any suggestions made by the Lessor and the Lessor's counsel in connection with any action to be taken by the Lessor pursuant to this Section 21.6. If the Lessor elects to pay the asserted deficiency and proceed by claim for refund, the provisions of subsections 21.4(a) and 21.4(b) shall become operative upon payment of such deficiency subject to the right of the Lessee to defer payment as set forth in the second proviso of this Section 21.6. If, however, a refund of all or any portion of such payment is obtained by the Lessor, the Fixed Rental applicable to the affected Item of Equipment shall, as soon as possible, be readjusted to its level immediately prior to the adjustment that was made to take into account payment of the deficiency, or, in the event of a partial refund, to the level necessary to account for the portion of the deficiency paid and not refunded. The Lessor shall then remit to the Lessee the amount by which the Lessee's payments of rent to the Lessor were increased pursuant to subsection 21.4(a) or 21.4(b) (in excess of the increase, if any, appropriate pursuant to the preceding sentence).

21.7. Capital Expenditures. (a) In the event and to the extent that the cost of any improvement and/or addition, including without limitation thereto any parts or alterations (hereinafter called Capital Expenditures) to an Item made by the Lessee, under and pursuant to the terms of this Lease or otherwise, is required to be included in the gross income of the Lessor for Federal income tax purposes at any time prior to the time such Item is disposed of in a taxable transaction, then the Fixed Rental for the Equipment set forth in Section 2.1(b) of this Lease (and the Schedule of Casualty Value applicable thereto) shall, on the next

succeeding rental payment date after the date on which the Lessor has paid an increased income tax liability as a result of a Capital Expenditure, be increased to such amount or amounts as shall, in the reasonable opinion of the Lessor, after taking into account any present or future tax benefits (determined on the assumption that the Lessor will attempt to maximize such benefits) that the Lessor reasonably anticipates it will derive from the Lessor's additional investment in the Item by reason of said inclusion (including without limitation any current deductions and current and future depreciation deductions), cause the Lessor's after-tax rate of return and annual after-tax cash flow (calculated on the same basis as used by the Lessor in originally evaluating this transaction) to equal that which would have been realized by the Lessor if the cost of such Capital Expenditures had not been includible in the Lessor's gross income.

(b) For purposes of this Section 21.8, the cost of Capital Expenditures made by the Lessee shall be deemed to be "required to be included in the gross income of the Lessor for Federal income tax purposes" if such inclusion is required by the Internal Revenue Service.

(c) It is further agreed that the Lessee may claim a deduction for Federal income tax purposes of any cost of Capital Expenditures which are required to be included in the gross income of the Lessor for Federal income tax purposes.

(d) The Lessee agrees that, within 30 days after the close of any calendar year (or in the event the Lessor gives the Lessee written notice that the Lessor's taxable year closes on a date specified therein other than December 31, within 30 days after said date) in which the Lessee has made Capital Expenditures which are or may be required to be included in the gross income of the Lessor for Federal income tax purposes prior to the time such Item is disposed of in a taxable transaction, the Lessee will exercise reasonable efforts to give written notice thereof to the Lessor describing such Capital Expenditures in reasonable detail and specifying the cost thereof with respect to each Item.

21.8. Investment Credit Election; Tax Benefits Resulting from Capital Expenditures. The Lessor and the Lessee agree that the Lessor shall elect under Section 48(d) of the Code to treat the Lessee as having acquired the Equipment, and that the Lessee may claim the investment credit and any other available tax benefits with respect to Capital Expenditures made by the Lessee. The Lessor will cause to be executed and delivered such instruments as are requested by the Lessee to evidence such election to pass to the Lessee such investment credit or other tax benefits. The Lessor has not made and shall not have been deemed to have made any warranty or representation as to the validity or effectiveness of such election or the availability of such tax benefits.

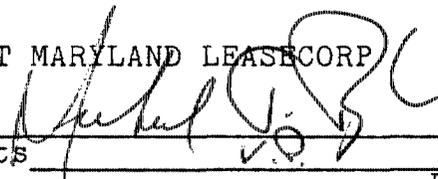
21.9. Changes in Tax Laws. If any amendment to the Code, Internal Revenue Service Regulations and tax rules is enacted or promulgated and make effective with respect to any Item of

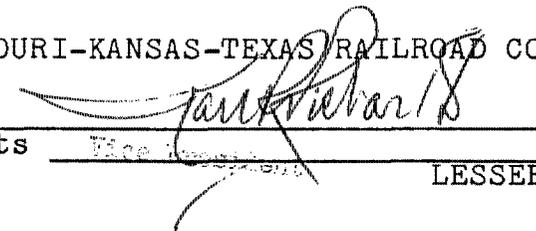
Equipment prior to the time the Lessor becomes the owner of such Item, and such amendment causes a change in the Tax Benefits, then the Fixed Rental specified in Section 2 of the Lease (and the Casualty Value, as defined in the Lease, applicable to such Item) shall be increased or decreased as necessary to preserve the Lessor's net after-tax rate of return and annual after-tax cash flow (calculated on the same basis as was utilized by the Lessor in originally evaluating this transaction) at the same level as if such Tax Benefits had not been changed. In the event the Lessee determines that any such amendment will result in a change in the Tax Benefits giving rise to an obligation to indemnify the Lessor as set forth herein, the Lessee may choose to exclude the Items of Equipment affected by such amendment from the transactions herein contemplated. In such case, the Lessee shall promptly notify the Manufacturers, the Lessor, the Assignee and the Investors of such exclusion.

21.10. Definition of Lessor Group. References in this Section 21 to the Lessor shall be deemed to include any affiliated group of which the Lessor is a part which files a consolidated return for Federal income tax purposes. All the indemnities contained in this Section 21 shall continue in full force and effect notwithstanding the expiration or other termination of the term of this Lease as to any or all of the Items of Equipment and are expressly made for the benefit of, and shall be enforceable by, the Lessor, its successors and assigns.

21.11. Survival. All of the Lessor's rights and privileges arising from the indemnities contained in this Section 21 shall survive the expiration or other termination of this Lease, and said indemnities are expressly made for the benefit of, and shall be enforceable by the Lessor, its successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

FIRST MARYLAND LEASECORP
By 
Its _____ LESSOR

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY
By 
Its _____ LESSEE

STATE OF MARYLAND)
) SS
CITY OF BALTIMORE)

On this 19th day of June, 1979, before me personally appeared MICHAEL T. PYLES, to me personally known, who being by me duly sworn, says that he is the VICE PRESIDENT of FIRST MARYLAND LEASECORP, that said instrument was signed 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.

[NOTARIAL SEAL]

Deborah Ann Kerner
Notary Public

My commission expires: 7-1-82

STATE OF TEXAS)
) SS
COUNTY OF DALLAS)

On this 6th day of July, 1979, before me personally appeared Karl R. Ziebart, to me personally known, who being by me duly sworn, says that he is the Vice President of MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, that said instrument was signed 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.

[NOTARIAL SEAL]

Luth mardock
Notary Public

My commission expires: 12-31-79

MANUFACTURER OF HOPPER CARS..... ACF Industries, Inc.

DESCRIPTION OF HOPPER CARS..... 100 Covered Hopper Cars bearing Mark and Numbers MKT 400 to MKT 499, both inclusive

SPECIFICATIONS FOR HOPPER CARS..... ACF No. 78-OA0-115 of March 13, 1978

ESTIMATED PRICE OF HOPPER CARS..... \$34,000

PLACE OF DELIVERY OF HOPPER CARS..... Milton, Pennsylvania or such other place mutually acceptable to the Lessee, the Lessor and the Manufacturer

ESTIMATED DELIVERY FOR HOPPER CARS..... December-January, 1980

OUTSIDE DELIVERY DATE FOR HOPPER CARS..... March 31, 1980

MANUFACTURER OF GONDOLA CARS..... Ortner Freight Car Company

DESCRIPTION OF GONDOLA CARS..... 100 Gondola Cars bearing Mark and Numbers MKT 12400 to MKT 12499, both inclusive

SPECIFICATIONS FOR GONDOLA CARS..... OCN 1369-3-78, and amendments thereto

ESTIMATED PRICE OF GONDOLA CARS..... \$32,000

PLACE OF DELIVERY OF GONDOLA CARS..... Covington, Kentucky

ESTIMATED DELIVERY DATES FOR GONDOLA CARS. July - October, 1979

OUTSIDE DELIVERY DATE FOR GONDOLA CARS.... December 31, 1979

(KATY No. 79-1)

CERTIFICATE OF ACCEPTANCE

First Maryland Leasecorp

ACF Industries, Inc. and Ortner
Freight Car Company, as applicable
("Manufacturers")

Gentlemen:

1. The undersigned officer of Missouri-Kansas-Texas Railroad Company (the "Lessee") is the authorized representative of First Maryland Leasecorp as Vendee designated under the Conditional Sale Agreement dated as of December 20, 1978 (the "Conditional Sale Agreement"). As such authorized representative, the undersigned hereby represents and certifies as follows:

(a) that the Items described below have been duly delivered in good order and condition by the Manufacturer under the Conditional Sale Agreement, have been duly inspected and accepted on the respective dates there shown by the undersigned as authorized representative of the Vendee and conform in all respects to the Specifications applicable hereto; and

(b) that each such Item was at its delivery properly marked on each side thereof with the legend provided in Section 5 of the Conditional Sale Agreement.

2. As the Lessee under the Equipment Lease dated as of December 20, 1978 (the Lease), the Lessee hereby represents and certifies:

(a) the Items described below have been delivered to us, as Lessee under the Lease on the dates indicated and have been duly inspected and are hereby accepted by us for lease under the Lease; and

(b) Each Item of Equipment described herein has not been placed in service by the Lessee or any other person so as to preclude "the original use of such

property" within the meaning of Sections 28(b) and 167(c)(2) of the Internal Revenue Code of 1954 as amended from commencing with the Lessor.

(c) All representations and warranties of the Lessee as set forth in that certain Certificate dated _____ and delivered to First Maryland Leasecorp and to First Security Bank of Utah, N.A. are true and correct in all respects as though made on and as of the date hereof.

Authorized Representative, as
aforesaid, and signing as to
the matters in paragraph 1
above

Dated: _____, 19__

MISSOURI-KANSAS-TEXAS RAILROAD
COMPANY, Lessee, and signing as
to the matters in paragraph 2
above

By _____
Its

Dated: _____, 19__

DESCRIPTION OF EQUIPMENT

<u>Type of Equipment</u>	<u>Total No. of Items</u>	<u>Place Accepted</u>	<u>Date Accepted</u>	<u>Numbered</u>
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SCHEDULE OF CASUALTY VALUE

The Casualty Value for an Item of Equipment payable on the Term Lease Commencement Date or any Fixed Rental payment date thereafter shall mean an amount equal to the percent of the Purchase Price of such Item set forth opposite such date in the following schedule:

<u>Term Lease Commencement Date or Number of Fixed Rental Payment Date on which Casualty Value is Paid</u>	<u>Percentage of Purchase Price Payable as Casualty Value</u>
Term Lease Commencement Date	107.3717
1	108.0755
2	108.3585
3	108.5510
4	108.6712
5	108.7174
6	108.7123
7	108.6270
8	108.4758
9	108.2569
10	107.9877
11	107.6438
12	107.2364
13	106.7641
14	106.2412
15	105.6495
16	104.9973
17	104.2831
18	103.5187
19	102.6916
20	101.8075
21	100.8650
22	99.8727
23	98.8246
24	97.7235
25	96.5679
26	95.3635
27	94.1110
28	92.8098
29	91.4586
30	89.7453

(KATY No. 79-1)

Term Lease Commencement Date
or Number of Fixed Rental
Payment Date on which
Casualty Value is Paid

Percentage of Purchase
Price Payable as
Casualty Value

31	87.9931
32	86.1959
33	84.3527
34	82.4608
35	80.5399
36	78.5804
37	76.5814
38	74.5368
39	72.4740
40	70.3800
41	68.2539
42	66.0862
43	63.9124
44	61.7158
45	59.4957
46	57.2389
47	54.9894
48	52.7267
49	50.4502
50	48.1419
51	45.8508
52	43.5274
53	41.1496
54	38.6934
55	36.2055
56	33.6613
57	31.0594
58	29.4023
59	25.8204
60	23.2640
and thereafter during any storage period	20.0000

(KATY No. 79-1)

Number of Fixed
Rental Payment Date

Minimum Price (Stated
as Percentage of
Purchase Price)

28

42.9348%

40

40.0106%

52

36.2799%

(KATY No. 79-1)

SCHEDULE D
(to Equipment Lease)