

**CONRAIL**



RECORDATION NO. 9668-A Filed & Recorded  
AUG 30 1978 -5 22 PM  
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9668 Filed & Recorded  
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August 30, 1978

RECORDATION NO. 9668-B Filed & Recorded  
AUG 30 1978 -5 22 PM  
INTERSTATE COMMERCE COMMISSION

HAND-DELIVER

Mr. H. G. Homme, Jr., Acting Secretary  
Interstate Commerce Commission  
12th and Constitution Avenue  
Washington, D. C. 20423

8-243A020  
Date AUG 30 1978  
Fee \$ 150

Dear Mr. Homme:

ICC Washington, D. C.

Pursuant to Section 20c of the Interstate Commerce Act and as provided by Volume 49 Code of Federal Regulations Sections 1116.1 through 1116.4 we present the following documents for recordation;

1. Lease of Equipment, dated as of July 15, 1978.

Lessor: Wells Fargo Leasing Corporation  
425 California Street  
San Francisco, California 94104

Lessee: United States Lease Financing, Inc.  
633 Battery Street  
San Francisco, California 94111

2. Lease of Equipment, dated as of July 15, 1978.

Lessor: United States Lease Financing, Inc.  
633 Battery Street  
San Francisco, California 94111

Lessee: Consolidated Rail Corporation  
Six Penn Center Plaza  
Philadelphia, Pennsylvania 19104

*Memorandum to Mr. Homme*

*Consolidated Rail Corporation*

3. Security Agreement, dated as of July 15, 1978.

Debtor: Wells Fargo Leasing Corporation  
425 California Street  
San Francisco, California 94104

Secured Party: The Philadelphia National Bank  
Broad & Chestnut Streets  
Philadelphia, Pennsylvania 19101

The following Equipment is covered by this transaction:

(SEE ATTACHED EXHIBIT)

Enclosed is our check for \$150 to cover the recordation fee. These documents have not been previously recorded with the Interstate Commerce Commission. After recording a counterpart original of these documents, please return the remaining copies, stamped with your recordation number to the individual presenting them for recordation.

Thank you for your assistance.

Sincerely yours,



Joseph T. Rowan  
Corporate Counsel

JTR/pe

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EQUIPMENT LEASE  
Dated as of July 15, 1978

9660-14  
RECORDATION NO. .... Filed & Recorded

AUG 30 1978 - 5 20 PM

COMMERCIAL COMMERCE COMMISSION

Between

UNITED STATES LEASE FINANCING, INC.,  
as Lessor

and

CONSOLIDATED RAIL CORPORATION,  
as Lessee

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EQUIPMENT LEASE

THIS EQUIPMENT LEASE, dated as of July 15, 1978 (the Lease), between UNITED STATES LEASE FINANCING, INC., a California corporation, (the Lessor) and CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the Lessee).

W I T N E S S E T H :

SECTION 1. Definitions; Construction of References.

In this Lease, unless the context otherwise requires:

(a) All references in this instrument to designated Sections and other subdivisions are to designated Sections and their subdivisions of this Lease, and the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Section or other subdivision;

(b) The terms defined in this Section 1 or elsewhere in this Lease shall have the meanings assigned to them in this Section 1 or elsewhere and include the plural as well as the singular;

(c) Except as otherwise indicated, all the agreements or instruments hereinafter defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof;

(d) The following terms shall have the following meanings for all purposes of this Lease;

(1) Appraisal shall mean a procedure whereby two independent appraisers, neither of whom shall be a manufacturer of the Item of Equipment for which Appraisal is required, one chosen by the Lessee and one by the Lessor, shall mutually agree upon the amount in question. The Lessor or the Lessee, as the case may be, shall deliver a written notice to the other party appointing its appraiser within 15 days after receipt from the other party of a written notice appointing that party's appraiser. If within 15 days after appointment of the two appraisers as described above, the two appraisers are unable to agree upon the amount in question, a third independent appraiser, who shall not be a manufacturer of such Item, shall be chosen within five days thereafter by the mutual consent of such first two appraisers or, if such first two appraisers fail to agree upon the appointment of a third appraiser, such appointment shall be made by an authorized representative of the American Arbitration Association or any organization successor thereto. The decision of the third appraiser so appointed and chosen shall be given within 10 days after the selection of such third appraiser and such decision shall be binding and conclusive on the Lessor and the Lessee. The Lessee shall pay all fees and expenses of any Appraisal if the Lessee does not exercise one of the options provided for in Section 16 hereof; otherwise, all such fees and expenses

shall be shared equally between the Lessor and the Lessee. No value in question determined pursuant hereto or as the Fair Market Value or Fair Market Rental Value of any Item shall be less than any such value determined in accordance with the Prime Lease.

(2) Interim Rent, Basic Rent, Supplemental Rent and Rent shall have the meanings set forth in Section 3 hereof.

(3) Basic Rent Dates for First Group, Basic Rent Dates for Second Group, Interim Rent Daily Factor, Basic Lease Rate Factor, Rent Commencement Date for First Group, Rent Commencement Date for Second Group, Expiration Date for First Group, Expiration Date for Second Group, Final Delivery Date, First Basic Rent Date for First Group, First Basic Rent Date for Second Group, First Delivery Date, Last Basic Rent Date for First Group, Last Basic Rent Date for Second Group, Overdue Rate, Lease Extension Periods, Return of Equipment and Equipment Marking shall have the meanings with respect to each Item of Equipment set forth in Exhibit C hereto.

(4) Business Day shall mean any day which is not a Saturday, Sunday or other day on which banks in Philadelphia, Pennsylvania or San Francisco, California are authorized to close.

(5) Casualty Value shall have the meaning with respect to each Item of Equipment set forth in Exhibit D hereto.

(6) Certificate of Acceptance shall mean a certificate of acceptance substantially in the form of Exhibit B hereto.

(7) Equipment, Equipment in First Group, Equipment in Second Group, Item of Equipment in First Group, Item of Equipment in Second Group, Fair Market Value, Fair Market Rental Value and Lessor's Cost shall have the meanings with respect to each Item of Equipment as set forth in the Prime Lease.

(8) Participation Agreement shall mean the Participation Agreement dated as of the date hereof among the Lessor, United States Leasing International, Inc. (the Guarantor), The Philadelphia National Bank (the Lender), the Owner and the Lessee.

(9) Prime Lease shall mean the Equipment Lease dated as of the date hereof between the Lessor as lessee and Wells Fargo Leasing Corporation (the Owner), a copy of which Prime Lease has been delivered by the Lessor to the Lessee; this Lease is subject and subordinate to the Prime Lease.

(10) Purchase Agreement shall mean the agreement dated as of the date hereof among the Lessor, the Owner and the Lessee providing for the purchase of the Equipment by the Owner and the terms Purchase Contract and Vendor are used herein with the same meaning as in the Purchase Agreement.

SECTION 2. Lease of Equipment.

Subject to the terms and conditions of this Lease, the Prime Lease, and the Participation Agreement, the Lessor hereby agrees to lease to the Lessee and the Lessee hereby agrees to lease from the Lessor such Items of Equipment as shall be described in one or more Certificates of Acceptance executed and delivered on behalf of the Lessor with respect thereto and as shall have been delivered and accepted on or after the First Delivery Date but on or before the Final Delivery Date and which conform to the description and restrictions contained on Exhibit A hereto as incorporated in the Participation Agreement (Equipment, and individually an Item or Item of Equipment). Upon delivery of each Item of Equipment to the Lessor, the Lessee will cause an authorized representative of the Lessee to inspect the same and, if such Item of Equipment is found to be in good order and condition and meets the specifications in the Purchase Contract therefor to accept such Item of Equipment and to execute and deliver a Certificate of Acceptance, satisfactory to the Lessor, with respect thereto and in so doing accept such Item on behalf of the Lessor, whereupon, such Item of Equipment shall be deemed to have been delivered to and accepted by the Lessee and shall be subject to the terms and conditions of this Lease. Any Items excludible hereunder shall be excluded pursuant to the Purchase Agreement and the Lessee shall take such appropriate action and indemnify and hold the Lessor harmless to the extent provided in Section 13 hereof with respect to all such excluded Items.

SECTION 3. Term and Rent.

(a) The term of this Lease as to each Item of Equipment in First Group and each Item of Equipment in Second Group shall begin on its date of acceptance, as set forth in the Certificate of Acceptance executed and delivered with respect thereto, and shall end on the Expiration Date for First Group and the Expiration Date for Second Group, respectively, unless this Lease shall have been terminated, or the term of this Lease with respect to such Item of Equipment shall have been extended, by the terms hereof.

(b) The Lessee shall pay to the Lessor as Basic Rent (herein referred to as Basic Rent) for each Item of Equipment subject to this Lease, the following:

(1) on the First Basic Rent Date for First Group an amount equal to the Basic Lease Rate Factor, multiplied by the Lessor's Cost of each Item of Equipment in First Group and on the First Basic Rent Date for Second Group, an amount to the Basic Lease Rate Factor, multiplied by the Lessor's Cost of each Item of Equipment in Second Group; and

(2) on each of the Basic Rent Dates for First Group and for Second Group thereafter to and including the Last Basic Rent Date for First Group and for Second Group, respectively, an amount equal to the Basic Lease Rate Factor, multiplied by the Lessor's Cost of each Item of Equipment in First Group and Second Group, respectively.

(c) The Lessee shall pay to the Lessor as Interim Rent (herein referred to as Interim Rent) for each Item of Equipment in First Group and each Item of Equipment in Second Group subject to this Lease on the Rent Commencement Date for First Group and the Rent Commencement Date for Second Group, respectively, an amount equal to the Interim Rent Daily Factor, multiplied by the Lessor's Cost of each such Item multiplied by the number of days from (and including) the date payment for such Item is made to the Vendor thereof under the Purchase Agreement to (but excluding) the Rent Commencement Date for First Group and the Rent Commencement Date for Second Group, respectively,

(d) The Lessee shall pay to the Lessor the following amounts (herein referred to as Supplemental Rent and, together with all Basic Rent and Interim Rent, as Rent):

(1) on demand, any amount payable hereunder (other than Basic Rent, Interim Rent and Casualty Value) which the Lessee assumes the obligation to pay, or agrees to pay, under this Lease to the Lessor or others;

(2) on the date provided herein, any amount payable hereunder as Casualty Value; and

(3) to the extent permitted by applicable law, interest (computed on the basis of a 360-day year of twelve 30-day months) at the Overdue Rate on any payment of Basic Rent, Interim Rent or Casualty Value, not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Rent, (excluding Casualty Value) not paid when demanded hereunder for the period from the date of such demand

until the date on which the same shall be paid.

(e) Subject to the provisions of the Participation Agreement, all payments of Rent hereunder shall be made so that the Lessor or any assignee of the Lessor, shall have immediately available funds on the date payable hereunder, and shall be paid to the Lessor at its address set forth herein or at such other address as the Lessor may direct by notice in writing to the Lessee.

SECTION 4. Net Lease, Assignment by Lessor.

(a) Net Lease. This Lease is a net lease and the Lessee acknowledges and agrees that the Lessee's obligations to pay all Rent hereunder, and the rights of the Lessor in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment (Abatement) for any reason whatsoever, including, without limitation, Abatements due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise, or against the manufacturer or seller of any Item of Equipment. Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the Lessee be affected, by reason of any defect in or damage to, or any loss or destruction of, the Equipment or any Item thereof from whatsoever cause, or the interference with the use thereof by any private person, corporation or governmental authority, or the invalidity or unenforceability or lack of due authorization 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 or regulation to the contrary notwithstanding, it being the express intention of the Lessor and the Lessee that all Rent payable by the Lessee hereunder shall be, and continue to be, payable in all events unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

(b) Assignment by Lessor. The Lessor shall have the right to mortgage the Equipment or assign, pursuant to the Prime Lease for reassignment pursuant to the Security Agreement or other separate form of assignment, all or any part of its rights under this Lease. In such event, each assignee shall be entitled to enforce the rights so assigned, but shall be under no liability to the Lessee to perform any of the obligations of the Lessor. The Lessee agrees that it will pay all sums so assigned and due by Lessee hereunder directly to such assignee (or to whomsoever the assignee shall direct) after receipt of notice of such assignment. Any assignee of Lessor's rights may reassign such rights with the same force and effect as an original assignment.

#### SECTION 5. Return of Equipment.

Upon the expiration or termination of this Lease with respect to the Items of Equipment, the Lessee, at its own risk and expense, will return such Items of Equipment then subject to this Lease to the Lessor pursuant to the Lessor's instructions set forth under the heading Return of Equipment in Exhibit C to this Lease and in the condition in which such Equipment is

required to be maintained pursuant to Section 9 hereof. Such Equipment, upon redelivery pursuant hereto, shall be free and clear of all mortgages, liens, security interests, charges, encumbrances and claims (Liens), other than Liens resulting from voluntary action by the Lessor without the prior approval of the Lessee and Liens described in Section 7(h) of the Participation Agreement (such Liens being herein referred to as Lessor's Liens). Upon return of each Item of Equipment, if the Lessor shall so require, the Lessee will provide free storage and insurance (pursuant to Section 12 hereof) for such Item at the place it is required to be returned for a period not exceeding forty five (45) days from the Expiration Date or the last day of any Lease Extension Period therefor.

SECTION 6. Warranties of the Lessor.

(a) The Lessor warrants that during the term of this Lease, if no Event of Default has occurred, the Lessee's use of the Equipment shall not be interrupted by the Lessor or anyone claiming solely through or under the Lessor other than the Lender.

(b) The warranties set forth in paragraph (a) of this Section are in lieu of all other warranties of the Lessor, whether written, oral or implied with respect to this Lease or the Equipment; and the Lessor shall not be deemed to have made, and the LESSOR LEASES THE EQUIPMENT AS-IS AND HEREBY DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS

FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, NOR SHALL THE LESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT), but the Lessor authorizes the Lessee, at the Lessee's expense, to assert for the Lessor's account, during the term of this Lease, so long as no Event of Default shall have occurred hereunder and be continuing, all of the Lessor's rights under any applicable manufacturer's or seller's warranty and the Lessor agrees to cooperate with the Lessee in asserting such rights; provided, however, that the Lessee shall indemnify and shall hold the Lessor harmless from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by the Lessor in connection with, as a result of, or incidental to, any action by the Lessee pursuant to the above authorization. Any amount received as payment under any such warranty shall be payable jointly to the Lessee and the Lessor and, if no Event of Default has occurred and is continuing hereunder, such amount shall be applied (a) if the breach of such warranty resulted in defects or deficiencies in the Equipment, to restore or as reimbursement to the Lessee for the restoration of the Equipment to the condition required by Section 9 hereof and if any excess funds are available after application as set forth in (a), then (b) if the breach of such warranty resulted in other loss, expense or liability, to pay any such loss, expense or liability or as reimbursement to the Lessee for any payments of

that nature made or incurred by the Lessee.

SECTION 7. Liens.

The Lessee will not mortgage, encumber or directly or indirectly create, incur, assume or suffer to exist any Liens on or with respect to the Equipment, title thereto or any interest therein (and the Lessee will promptly, at its own expense, take such action as may be necessary to duly discharge any such Lien), except (a) the respective rights of the Lessor and the Lessee as herein provided, (b) Lessor's Liens, (c) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings, if counsel for the Lessor shall have determined that the nonpayment of any such tax or the contest of any such payment in such proceedings do not, in the opinion of such counsel, adversely affect the title, property, or rights of the Lessor, and (d) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business of the Lessee and not delinquent.

SECTION 8. Taxes.

The Lessee agrees to pay and to indemnify the Lessor for, and hold the Lessor harmless from and against, all income, franchise, sales, use, personal property, ad valorem, value added, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges, or withholdings of any nature, licensing or registration fees, together with any penalties, fines or interest thereon or reasonable attorneys' fees incurred by the Lessor with respect thereto (Impositions), arising out of the transactions contemplated by this Lease and imposed against

the Lessor, the Lessee or the Equipment by any federal, state, local or foreign government or taxing authority upon or with respect to the Equipment or upon the sale, purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon or with respect to this Lease (excluding, however, taxes on, or measured by, the net income of the Lessor and (i) imposed by the jurisdiction in which the principal office of the Lessor is located or (ii) imposed by any other jurisdiction in which the Lessor is subject to taxes as a result of business or transactions unrelated to this Lease) unless, and only to the extent that, the Lessee shall have given to the Lessor written notice within 30 days of any such Imposition, which notice shall state that such Imposition is being contested by the Lessee in good faith and by appropriate proceedings and counsel for the Lessor shall have determined that the nonpayment thereof or the contest thereof in such proceedings does not, in the opinion of such counsel, adversely affect the title, property or rights of the Lessor. If a claim is made against the Lessee or the Lessor for any Imposition, the party receiving notice of such claim shall promptly notify the other. In case any report or return is required to be made, whether in the name of the Lessor, the Lessee or the Owner (including, without limitation, all state and local sales, use and property tax returns) with respect to any obligation of the Lessee under this Section 8 or arising out of this Section 8, the Lessee will either (after notice to the Lessor) make such report or return in

such manner as will show the ownership of the Equipment in the Lessor or the Owner and send a copy of such report or return to the Lessor or will notify the Lessor of such requirement and make such report or return in such manner as shall be satisfactory to the Lessor. The Lessor agrees to cooperate fully with the Lessee in (a) the preparation of any such report or return and (b) provided the Lessee shall pay all costs and expenses of the Lessor, any contest contemplated in this Section 8.

SECTION 9. Use, Maintenance and Operation;  
Identifying, Marks.

(a) The Lessee agrees that the Equipment will be used, and when redelivered to the Lessor will be, in compliance with any and all statutes, law, ordinances and regulations of any governmental agency applicable to the use of the Equipment, and, subject to the provisions of Section 14 hereof, will at all times be used solely in the conduct of its business and be and remain in the possession and control of the Lessee. Throughout the term of this Lease, the possession, use and maintenance of the Equipment shall be at the sole risk and expense of the Lessee.

(b) The Lessee shall use the Items of Equipment only in the manner for which they were designed and intended and will, at its own cost and expense, install or otherwise provide all mechanisms, modifications and improvements required for the Equipment to be in compliance with Section 9(a) hereof and repair and maintain each Item of Equipment in accordance with manufacturer's recommendations for preventative maintenance and repair and so as to keep it in as good condition as when

delivered to the Lessee hereunder, ordinary wear and tear excepted, provided, however, that any Item which becomes worn out, unfit for use or unserviceable due to ordinary wear and tear (or any other cause) shall be considered as having suffered an Event of Loss.

(c) The Lessee will not, without the prior written consent of the Lessor, affix or install any accessory, equipment or device on any Item of Equipment leased hereunder which will either impair the originally intended function or use or adversely affect the commercial value of any such Item or constitute an improvement or addition to such Item of Equipment which is not, within the meaning of any law, regulation or procedure then in effect, readily removable (non-removable addition). The Lessor shall be deemed to have consented in advance to any non-removable addition which is required by the terms of Section 9(b) hereof. The Lessee agrees that any addition or improvement to the Equipment which has been furnished, attached or affixed to any Item with the consent of the Lessor shall upon attachment or affixation become the property of the Lessor and thereupon all such accessories, equipment and devices shall become a part of the Equipment leased hereunder. The Lessee agrees that each such Item is, and shall continue to be throughout the term of this Lease, personal property under applicable law and the Lessee agrees to take such action as shall be required from time to time by the Lessor to protect the Owner's title to each such Item and the right of the Lessor to remove the same.

(d) The Lessee agrees, at its own cost and expense, to (1) cause each Item of Equipment to be kept numbered with the identification or serial number therefor as specified in the Certificate of Acceptance therefor and (2) maintain the Equipment Marking on each Item of Equipment and such other markings as from time to time may be required by law or otherwise deemed necessary by the Lessor in order to protect the title of the Owner to such Item of Equipment, the rights of the Lessor under this Lease and the lien granted by the Owner in financing the Lessor's Cost of the Equipment. The Lessee will not place any Item of Equipment in operation or exercise any control or dominion over the same until such Equipment Marking has been placed thereon. The Lessee will replace promptly any such Equipment Marking which may be removed, defaced or destroyed.

(e) The Lessee represents that it has no present intention to make any non-removable addition to the Equipment and that it does not presently foresee that any such non-removable addition will be required by the terms of this Lease.

SECTION 10. Inspection.

The Lessor shall have the right, but not the duty, to inspect the Equipment. Upon the request of the Lessor, the Lessee shall confirm to the Lessor the location of each Item of Equipment and shall, at any reasonable time, make the Equipment, and the Lessee's records pertaining to the Equipment, available to the Lessor for inspection at such location.

SECTION 11. Loss or Destruction; Requisition of Use.

(a) In the event that any Item of Equipment shall be or become damaged, worn out, destroyed, lost, stolen, or permanently rendered unfit for use for any reason whatsoever, or title thereto shall be requisitioned or otherwise taken by any governmental authority under power of eminent domain or otherwise (Requisition of Use), or any Item of Equipment is returned to the manufacturer or seller thereof pursuant to any patent indemnity provisions of any Purchase Contract, such fact shall promptly be reported by the Lessee to the Lessor.

(b) The Lessee shall determine and notify the Lessor of the determination which has been made within 30 days after the date of occurrence of any such damage or wearing out, whether such Item of Equipment can be repaired within four months from the date of such notice (Repair Period).

(c) In the event that such Item cannot be repaired within the Repair Period or in the event of such damage, wearing out, destruction, loss, theft, unfitness for use, Requisition of Use for a stated period which exceeds the remaining term of this Lease, a Requisition of Use for an unstated period which exists for more than 90 days or until the Expiration Date, or return of such Item to the manufacturer or seller thereof without replacement thereof within four months of the date of such return (any of such occurrences being referred to as an Event of Loss), the Lessee shall promptly notify the Lessor of such Event of Loss. On the Rent Commencement Date or the Basic Rent Date for the Item affected next following the date of such Event of Loss

the Lessee shall pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date or Rent Commencement Date, together with a full payment of Basic Rent for such Item of Equipment and any other amounts then due. In the event the Lessee determines that such Item can be repaired, the Lessee shall continue to make all payments of Basic Rent due with respect to such Item and shall cause such Item to be repaired or returns such Item to the manufacturer for replacement, within the Repair Period or in the event an Item is returned to the Manufacturer or seller and replaced within four months, the Lessee shall take such action as may be required to protect the Owner's title thereto and perfect, protect and preserve the interests of the Lessor and the Owner and any security interests created by the Owner; provided, that if the Lessee shall fail to repair such Item within the Repair Period or replace any such returned Item within four months the Lessee shall, on the Basic Rent Date for the Item affected next following the end of the Repair Period or time limit for replacement, pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date, together with a full payment of Basic Rent for such Item of Equipment and any other amounts then due. If at such time no more Basic Rent is or will become payable under this Lease, the Casualty Value shall be paid at the end of the Repair Period or time limit for replacement and the Lessee shall pay the Lessor interest at the Overdue Rate on an amount equal to the Casualty Value, as of the Expiration Date, from the Expiration Date to the date the Casualty Value is paid. If the Item to be repaired is

repaired or an Item to be replaced is replaced within the time period allowed and is returned to the Lessor after the Expiration Date therefor, at the time of such return the Lessee shall pay the Lessor interest at the Overdue Rate on an amount equal to the Fair Market Value of such Item at the time it is returned from the Expiration Date for such Item to the date of its return to the Lessor. Notwithstanding the foregoing, the Lessee, pursuant to the provisions of Section 15 of the Prime Lease, shall still be required to indemnify the Lessor for any Loss, as defined in Section 15 thereof, due to the replacement or modification of an Item of Equipment as authorized hereby. Upon making such Casualty Value payment in respect of such Item and the full payment of Basic Rent and all other Rent due and owing with respect thereto, the Lessee's obligation to pay further Basic Rent for such Item shall cease, but the Lessee's obligation to pay Supplemental Rent, if any, for such Item, and to pay Rent for all other Items of Equipment shall remain unchanged and the Lessee shall be obligated to pay Interim Rent and each and every installment of Basic Rent up to and including Rent on the date for the payment of Casualty Value. Except in the case of loss, theft, destruction, or return to the manufacturer or seller, the Lessor shall be entitled to recover possession of such Item, unless possession of such Item is required to be delivered to an insurance carrier (other than the Lessee) in order to settle an insurance claim arising out of the Event of Loss. The Lessor shall be entitled to retain any salvage value collected by such insurance carrier in excess of the amount paid to the Lessor by

said insurance carrier. The Lessor shall be under no duty to Lessee to pursue any claim against any governmental authority, but the Lessee may at its own cost and expense pursue the same on behalf of the Lessor in such manner as may be satisfactory to the Lessor. Any replacement Item provided by the Manufacturer or seller in exchange for the original Item in accordance with the provisions of this Section 11(c) shall be in as good operating condition as, and shall have a value and utility at least equal to, the original Item replaced, assuming the Item replaced was in the condition and state of repair required to be maintained by the terms hereof.

(d) Following payment of the Casualty Value of and the installment of Basic Rent for an Item of Equipment in accordance with the provisions of Section 11(c), the Lessee shall, as agent for the Lessor, dispose of such Item as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate Item so disposed of, the Lessee may, after paying the Lessor the amounts specified in Section 11(c), retain all amounts of such price, plus damages received by the Lessee by reason of such Event of Loss, up to the Casualty Value and the Lessee's reasonable costs and expenses of disposition attributable thereto, and shall remit the excess, if any, to the Lessor. As to each Item of Equipment returned to the manufacturer or seller thereof in the manner described in Section 11(a) and not replaced or modified by the manufacturer or seller pursuant to any patent indemnity

provisions of any Purchase Contract, the Lessor agrees that after paying the Lessor the amount specified in Section 11(c), the Lessee shall receive and retain all amounts payable to the Lessor by the manufacturer or seller for the return of such Item, up to the Casualty Value paid by the Lessee hereunder, and any excess shall be paid over to or retained by the Lessor. As to each Item of Equipment modified and each replacement Item installed by the manufacturer or seller pursuant to any patent indemnity provisions of any Purchase Contract, the Lessor and the Lessee agree that such modified Item or replacement Item shall be delivered to the Lessee and shall, without any further act of the Lessor or the Lessee, be considered an Item for all purposes of this Lease.

(e) The Lessee shall bear the risk of loss and shall not be released from its obligations hereunder in the event of any damage or Event of Loss to any Item of Equipment after delivery to and acceptance by the Lessee hereunder.

(f) In the case of a Requisition of Use of any Item of Equipment for a stated period which does not exceed the remaining term of this Lease for such Items, such Requisition of Use shall not terminate this Lease with respect to such Item, and each and every obligation of the Lessee with respect thereto shall remain in full force and effect. So long as no Event of Default shall have occurred and be continuing under this Lease, the Lessee shall be entitled to all sums received by reason of any such Requisition of Use.

SECTION 12. Insurance.

The Lessee will at all times after delivery and acceptance of each Item of Equipment, at its own expense, keep or cause to be kept each such Item insured by a reputable insurance company or companies, satisfactory to the Lessor, in amounts, against risks and with deductibles customarily insured against consistent with prudent industry practice by lessees of similar equipment owned or leased by railroads. Any such insurance may be carried under blanket policies maintained by the Lessee so long as such policy otherwise complies with the provisions of this Section 12. All such insurance and deductibles thereunder shall be satisfactory in form, content and amounts to the Lessor, the Owner and the Lender and shall cover the interest of the Lessor, the Owner and the Lender in the Items, as their interests may appear, and shall protect the Lessor, the Owner and the Lender in respect of risks arising out of the condition, maintenance, use, ownership, or operation of the Items. Such insurance may provide that losses shall be adjusted with the Lessee. All liability policies shall name the Lessor, the Owner and the Lender as insureds. All policies required hereby covering loss or damage to any Item shall name the Lessor, the Owner and the Lender as insureds and shall provide that any payment thereunder for any loss or damage shall (except as provided below) be made to the Lender, the Lessor and Owner, as their interests may appear under a standard mortgagee loss payable clause satisfactory to the Lessor and the Lender and shall provide that the insurer thereunder waives all rights of

subrogation against the Lessor, the Owner and the Lender, and that such insurance as to the interests of the Lessor, the Owner and the Lender therein shall not be invalidated by any act or neglect of the Owner, the Lessor, the Lessee or the Lender or by any foreclosure or other remedial proceedings or notices thereof relating to the Items or any Items or any interest therein nor by any change in the title or ownership of the Items or any interest therein or with respect thereto, or by the use or operation of the Items for purposes more hazardous or in a manner more hazardous than is permitted by such policy. No such policy shall contain a provision relieving the insurer thereunder of liability for any loss by reason of the existing of other policies of insurance covering the Items against the peril involved, whether collectible or not. If no Event of Default has occurred and is continuing hereunder, all proceeds of insurance received by the Lessor and the Lender with respect to any Items of Equipment not suffering an Event of Loss shall be paid to the Lessee upon proof satisfactory to the Lessor and the Lender that any damage to any Item with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by the Lessor and the Lender with respect to an Event of Loss shall be credited toward the payment required by this Lease with respect to an Event of Loss. The Lessee shall upon request of any such party, allow the Lender, the Lessor and the Owner an opportunity to read and review the insurance policies required hereunder and shall furnish each of such parties certificates or other satisfactory evidence of maintenance of the insurance required hereunder and

with respect to any renewal policy or policies shall furnish certificates evidencing such renewal not less than 30 days prior to the expiration date of the original policy or renewal policies. All such policies shall provide that the same shall not be cancelled or materially altered without at least 30 days prior written notice to each assured named therein.

SECTION 13. Indemnification.

Except as otherwise provided herein, the Lessee agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability), actions, suits, costs, expenses and disbursements (including, without limitation, legal fees and expenses) of any kind and nature whatsoever (Claims) which may be imposed on, incurred or asserted against the Lessor, whether or not the Lessor shall also be indemnified as to any such Claim by any other person, in any way relating to or arising out of this Lease or any document contemplated hereby or the performance or enforcement of any of the terms hereof or thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, sublease, possession, use, operation, maintenance, condition, registration, sale, return, storage or disposition of any Item of Equipment or any accident in connection therewith (including, without limitation, latent and other defects, whether or not discoverable and any Claim for patent, trademark or copyright infringement);

provided, however, that the Lessee shall not be required to indemnify the Lessor for (a) any Claim in respect of any Item of Equipment arising from acts or events which occur after possession of such Item of Equipment has been redelivered to the Lessor, or (b) any Claim resulting from acts which would constitute the wilful misconduct or gross negligence of the Lessor. To the extent that the Lessor in fact receives indemnification payments from the Lessee under the indemnification provisions of this Section 13, the Lessee shall be subrogated, to the extent of such indemnity paid, to the Lessor's rights with respect to the transaction or event requiring or giving rise to such indemnity. The Lessee agrees that the Lessor shall not be liable to the Lessee for any Claim caused directly or indirectly by the inadequacy of any Item of Equipment for any purpose or any deficiency or defect therein or the use or maintenance thereof or any repairs, servicing or adjustments thereto or any delay in providing or failure to provide any thereof or any interruption or loss of service or use thereof or any loss of business, all of which shall be the risk and responsibility of the Lessee. The rights and indemnities of the Lessor hereunder are expressly made for the benefit of, and shall be enforceable by, the Lessor notwithstanding the fact that the Lessor is either no longer a party to this Lease, or was not a party to this Lease at its outset.

SECTION 14. Assignment by Lessee.

Without the prior written consent of Lessor, the Lessee shall not lend or sublease any Item of Equipment, or assign this Lease in whole or in part or create, incur or allow any lien, encumbrance or claim to exist with respect to Lessee's leasehold interest hereunder. The Items of Equipment shall at all times be located only in the those jurisdictions in the continental United States which shall have adopted and shall have in effect the Uniform Commercial Code. No sublease, other relinquishment of the possession of any of the Equipment, or assignment by the Lessee of any of its rights hereunder done with the written consent of the Lessor shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder.

SECTION 15. Tax Idemnification.

The Lessor has agreed in the Prime Lease and in the Participation Agreement that if any of the assumed tax benefits described therein are lost or unavailable to the Owner or the Owner has to include any sums in the its gross income or pay any greater amount on account of the purchase price of any Item other than 33.87% thereof as assumed in the Prime Lease and the Participation Agreement or by reason of any change in the Internal Revenue Code of 1954, as amended, or any rule or regulation thereunder which is effective in or retroactive to the years 1978 or 1979 or any of the other events described in the Prime Lease or the Participation Agreement including, without limitation, a breach of the representations and warranties contained in Section 10(a) thereof, to pay the Owner increased

rental, lump sum payments or a combination of any of the above and to indemnify, defend and save harmless the Owner from the consequences of any such events, including the payment of all interest, penalties, costs and expenses relating to any matters, contests or procedures described in the Prime Lease and the Participation Agreement whether undertaken voluntarily or otherwise by the Lessor or the Owner. The Lessee hereby agrees to pay the Lessor as additional rent hereunder:

(a) the amount of any lump sum payment paid by the Lessor with interest at the rate of 10% per annum from the date of the Lessor's payment to the date of reimbursement of Lessor by Lessee upon demand by Lessor:

(b) the amount of any increase in the rentals to be paid by the Lessor on the corresponding day the Lessor must make each such payment to the Owner, or if any such payments are to be made by the Lessor after the term of the Lease, on the last day of the term of this Lease, an amount equal to the present value at an 8% per annum rate of all future payments of increased rent which the Lessor is required to make; and

(c) the amount of all such expense, loss, cost, damage or liability paid or incurred by the Lessor.

The Lessee agrees to keep all records and upon reasonable notice from and demand by the Lessor to furnish all such information required of the Lessor to be kept or furnished under the Prime Lease or the Participation Agreement. The Lessee represents to the Lessor and the Owner that to the best of its knowledge and belief each Item of Equipment will have, on the Expiration Date

therefore, a Fair Market Value of not less than 20% of the Lessor's Cost thereof and a then remaining useful life of not less than two and one half years.

This provision shall not apply to payments or liabilities of the Lessor which are both (a) due to an act or omission of the Lessor after the Expiration Date and return of the Equipment to Lessor provided no Event of Default has occurred and is continuing hereunder and (b) not attributable in whole or in part to any event or circumstance existing or arising prior to the Expiration Date or to the extent resulting from gross negligence in any act or willful misconduct in any omission by the Lessor. The Lessor will notify the Lessee of any event of which the Lessor has received notice under the Prime Lease which may give rise to payment by the Lessee hereunder and cooperate with the Lessee to allow the Lessee to exercise in its own name or to control the exercise by the Lessor of the Lessor's rights under Section 15(d) of the Prime Lease subject to the condition that the Lessee complies to the satisfaction of the Owner and the Lessor with the requirements of clauses (iii), (iv) and (v) thereof.

SECTION 16. Lease Extension, Purchase Option.

(a) Provided that this Lease has not been terminated and provided that no Event of Default has occurred and is continuing hereunder, the Lessee shall have the option to extend the term of this Lease with respect to the Equipment for such Lease Extension Periods as are provided for in Exhibit C hereto for a rental equal to the Fair Market Rental Value thereof

determined as the end of term or last extended term of this Lease or at the end of the term or any extended term of this Lease to purchase the Equipment from the Lessor at a price equal to the Fair Market Value thereof.

(b) Not less than 180 days prior to the Expiration Date or end of the last renewal period, the Lessee may indicate, by written notice to the Lessor, the Lessee's interest in exercising the Lessee's lease extension or purchase option described above, which notice shall set forth the Lessee's estimate of the Fair Market Rental Value or Fair Market Value of the Equipment as of such date. If, on or before a date 160 days prior to such date, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value or Fair Market Value, such amount shall be determined in accordance with the procedure for Appraisal. After a determination has been made in accordance with the procedure described above, the Lessee may exercise its option to extend the term of this Lease or purchase the Equipment by delivering written notice of such exercise to the Lessor not less than 110 days prior to the Expiration Date or end of the last renewal period.

SECTION 17. Events of Default.

The term Event of Default, wherever used herein, shall mean any of the following events under the Lease listed below (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or come about or be affected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or

regulation of any administrative or governmental body).

(a) The Lessee shall fail to make any payment of Rent within three (3) business days after the same shall become due; or

(b) The Lessee shall fail to maintain insurance in accordance with the requirements of Section 12 hereof; or

(c) The Lessee shall fail to perform or observe any other covenant, condition, or agreement to be performed or observed by it under this Lease or any agreement, document or certificate delivered by the Lessee in connection herewith, and such failure shall continue for 20 days after written notice thereof from the Lessor to the Lessee; or

(d) Any representation or warranty made by the Lessee in this Lease or in any document (including financial statements) except the representations and warranties contained in Section 11(a) of the Participation Agreement or certificate furnished to the Lessor in connection herewith shall prove to have been incorrect in any material respect when any such representation or warranty was made or given; or

(e) A petition in bankruptcy shall be filed by the Lessee or the Lessee shall make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver; or a trustee or a receiver shall be appointed for the Lessee, for any Item of Equipment or for a substantial part of its property without its consent and shall not be dismissed within a period of 60 days; or bankruptcy, reorganization or insolvency proceedings shall be instituted against the Lessee and shall not be dismissed

for a period of 60 days; or

(f) The Lessee shall attempt to or remove, sell, transfer, encumber, part with possession of, assign or sublet any Item of Equipment in violation of the terms of this Lease.

SECTION 18. Remedies.

(a) Upon the occurrence of any Event of Default and so long as the same shall be continuing, the Lessor may, at its option, declare this Lease to be in default by written notice to such effect given to the Lessee, and at any time thereafter, the Lessor may exercise one or more of the following remedies, as the Lessor in its sole discretion shall lawfully elect:

(1) Proceed by appropriate court action, 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;

(2) By notice in writing terminate this Lease, whereupon all rights of the Lessee to the use of the Equipment shall absolutely cease and terminate but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessee, if so requested by the Lessor, shall at its expense promptly return the Equipment to the possession of the Lessor at such place as the Lessor shall designate and in the condition required upon the return thereof pursuant to and in accordance with the terms hereof, or the Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise.

The Lessee shall, without further demand, forthwith pay to the Lessor an amount equal to any unpaid Rent due and payable for all periods up to and including the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default, plus, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the Casualty Value of the Equipment then subject to this Lease, computed as of the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default. Following the return of the Equipment to the Lessor pursuant to this paragraph (2), the Lessor shall proceed to sell the Equipment in such manner as it shall deem appropriate. The proceeds of such sale shall be applied by the Lessor (A) first, to all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor as a result of the default and the exercise of its remedies with respect thereto, and (B) second, to reimburse the Lessee for the Casualty Value to the extent previously paid by the Lessee as liquidated damages. Any surplus remaining thereafter shall be retained by the Lessor. To the extent that the Casualty Value has not been previously paid, the Lessee shall forthwith pay to the Lessor the sum of (i) the amount by which (X) the sum of (a) the Casualty Value thereof, and (b) the amount payable under Clause (A) of the preceding sentence, exceeds (Y) the sale price of the Equipment, and (ii) interest at the Overdue Rate on the full amount of the Casualty Value, computed from

the date the Casualty Value is payable hereunder until such Casualty Value is paid by the Lessee.

(b) The Lessee shall be liable for all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto.

(c) No remedy referred to herein is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to the Lessor at law or in equity. No express or implied waiver by the Lessor of any default or Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent default or Event of Default. The failure or delay of the Lessor in exercising any 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 and any single or partial exercise of any particular right by the Lessor shall not exhaust the same or constitute a waiver of any other right provided herein.

SECTION 19. Special Representations, Warranties and Covenants of the Lessee, Opinion of the Lessee's Counsel.

The Lessee hereby represents, warrants and covenants as follows:

(a) The Lessee is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania; the Lessee is duly authorized to conduct its business in each jurisdiction in which it operates and has duly qualified and is in good standing as a foreign corporation in each jurisdiction where the failure to so qualify or be in good standing could materially adversely affect its ability to perform its obligations under the Participation Agreement, the Purchase Agreement or this Lease.

(b) (i) The consolidated balance sheet of the Lessee and its subsidiaries as of December 31, 1977, and the consolidated statement of income and retained earnings for the fiscal year ended on said date prepared and certified by Coopers & Lybrand have been prepared in accordance with generally accepted accounting principles consistently applied, and present fairly the financial position of the Lessee and its subsidiaries on a consolidated basis as of such date and the results of operations of the Lessee and its subsidiaries on a consolidated basis for such period, and (ii) Since December 31, 1977, there has been no material adverse change in the condition, financial or otherwise, of the Lessee and its subsidiaries as shown on the balance sheet as of such date except changes in the ordinary course of business and except changes generally described in the "Memorandum for Investors" dated February 15, 1978 and the First and Second Supplements thereto dated April 26, 1978 and July 5, 1978, respectively (collectively, the "Memorandum") previously furnished the Lessor, the Owner and Lender.

(c) The Lessee is presently dependent on financing from the United States of America for its financial viability. On February 19, 1978, pursuant to the requirements of the Regional Rail Reorganization Act of 1973 and the Financing Agreement dated March 12, 1976 between the Lessee and the United States Railway Association ("USRA"), the Lessee submitted a Five Year Business Plan covering the period 1978 to 1982 to USRA, indicating it needed at least an additional \$1.3 billion of government funds to achieve self-sustainability. On the same date, the Lessee prepared the Memorandum, which describes the various assumptions of the Business Plan. The Memorandum has been furnished to the Lessor, the Owner and the Lender. Although the Lessee believes that the Memorandum discusses the major aspects of the Lessee's need for government funding, the Lessee cannot assure the Lessor, the Owner and or Lender that the Memorandum contains all information about the Lessee that could materially and adversely affect the Lessee's business or condition (financial or otherwise) which such parties would deem material.

(a)  
(d) Except as set forth in the Memorandum, there are no proceedings pending or, to the knowledge of the Lessee threatened, against or affecting the Lessee or any subsidiary in any court or before any governmental authority or arbitration board or tribunal which if adversely determined would materially affect the Lessee's ability to perform its obligations under the Lease <sup>on the Participation Agreement and (b)</sup> or the Purchase Agreement, neither the Lessee nor any subsidiary is in default with respect to any order of any court

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or governmental authority or arbitration board or tribunal

as to which the failure to be in compliance would materially adversely affect the ability of the Lessee to perform its obligations under the Lease, the Purchase Agreement or the Participation Agreement.

(e) The execution and delivery by the Lessee of the Participation Agreement, Purchase Agreement and the Lease and compliance by the Lessee with all of the provisions of said instruments:

(i) are within the corporate powers of the Lessee; and

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(ii) will not violate any provisions of any law or any order of any court or governmental authority or agency applicable to the Lessee and will not conflict with or result in any breach of any of the terms, conditions or provisions of , or constitute a default under the Certificate of Incorporation or By-Laws of the Lessee or any indenture, mortgage, conditional sale, loan or credit agreement or other instrument to which the Lessee is a party or by which it may be bound or result in the imposition of any liens or encumbrances on any property of the Lessee.

(f) No Event of Default as defined in the Lease has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute an Event of Default as herein defined.

(g) No approval, consent or withholding of objection on the part of any regulatory body, state, Federal or local, is necessary in connection with the execution and delivery by the Lessee of the Purchase Agreement, the Participation Agreement or the Lease or compliance by the Lessee with any of the provisions of any of said instruments.

(h) No mortgage, deed of trust or other lien of any nature whatsoever which now covers or effects any property or interest therein of the Lessee, now attaches or hereafter will attach to any Item of Equipment or in any manner affects or will affect adversely the right, title and interest of the Lessor or the Owner or security interest of the Lender therein; provided, however, that such liens may attach to the leasehold estate of the Lessee under the Lease.

(i) The Equipment is covered by the insurance required by Section 12 of the Lease and all premiums due on or prior to the date hereof in respect of such insurance have been paid in full.

(j) The Lessee agrees to furnish to the Lessor on or before the First Delivery Date and as a condition of the Lessor's obligation to lease the Equipment to the Lessee hereunder the opinion of Joseph T. Rowan, Esq., Corporate Counsel for the Lessee satisfactory in form and substance to the Lessor as to the matters set forth in Exhibit E to this Lease.

SECTION 20. Priority of Owner's and Lender's Interests in Equipment.

The Lessee's right hereunder to the possession, use and enjoyment of the Equipment otherwise in accordance with the terms hereof shall be subject to the rights of the Owner of the Equipment and the rights of the Lender under the Security Agreement, and the Lessee confirms and agrees that its rights and interests under this Lease are in all events subject and junior to the rights and interests of the Owner and Lender. Upon notice

to the Lessee by the Owner or the Lender that an Event of Default has occurred and is continuing under the Prime Lease or the Security Agreement, the Owner or the Lender may require that all rentals and other sums due hereunder shall thereafter be paid directly to the Owner or the Lender and that the Owner or the Lender may require prompt delivery by the Lessee of the Equipment to the Owner or the Lender in accordance with the provisions of Section 5 hereof. The foregoing is not intended to create any remedies in favor of the Owner or the Lender which are not provided for in the Participation Agreement, the Security Agreement, the Lease or elsewhere in this Sublease.

SECTION 21. Notices.

All communications and notices provided for herein shall be in writing and shall become effective when deposited in the United States mail, with proper postage for first-class mail prepaid, addressed

(a) if to the Lessor at:

633 Battery Street  
San Francisco, California 94111  
Attention: Vice President

(b) if to the Lessee at:

1310 Six Penn Center  
Philadelphia, Pennsylvania 19104  
Attention: Vice President and  
Treasurer

SECTION 22. Amendments and Miscellaneous.

(a) The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by the Lessor and the Lessee; provided that no such waiver, alteration, modification, amendment or supplement shall make any change, and no termination shall be made, which is prohibited by the Prime Lease.

(b) This Lease, including all agreements, covenants, representations and warranties, shall be binding upon and inure to the benefit of the Lessor and its successors, assigns, agents, servants and personal representatives.

(c) All agreements, indemnities, covenants, representations and warranties contained in this Lease or in any document or certificate delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease.

(d) Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be 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 provision in any other jurisdiction. To the extent permitted by applicable law, the Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in

any respect.

(e) This Lease shall constitute an agreement of lease and nothing herein shall be construed as conveying to the Lessee any right, title or interest in or to the Equipment, except as lessee only.

(f) The single executed original of this Lease marked "Original" shall be the "Original" and all other counterparts hereof shall be marked and be "Duplicates." To the extent that this Lease constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Lease may be created through the transfer or possession of any counterpart other than the "Original."

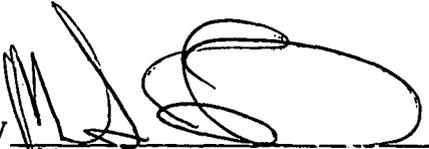
(g) This Lease shall be construed in accordance with, and shall be governed by, the laws of the Commonwealth of Pennsylvania.

(h) Section headings are for convenience only and shall not be construed as part of this Lease.

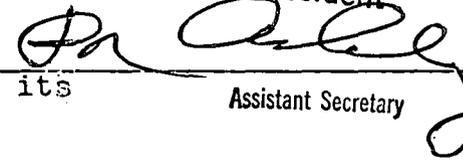
IN WITNESS WHEREOF, the parties hereto have each caused this Lease to be duly executed by their respective officers thereunto duly authorized.

LESSOR:

UNITED STATES LEASE  
FINANCING, INC.

By  \_\_\_\_\_  
its

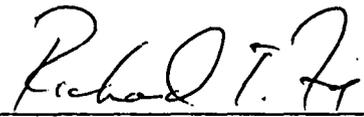
Vice President

By  \_\_\_\_\_  
its

Assistant Secretary

LESSEE:

CONSOLIDATED RAIL CORPORATION

By  \_\_\_\_\_  
its

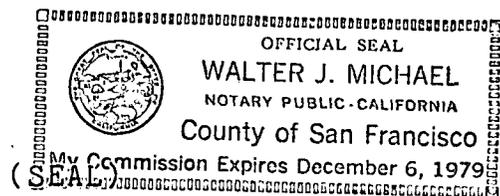
VP-Treas.

By  \_\_\_\_\_  
its

ASSISTANT SECRETARY

STATE OF CALIFORNIA )  
 ) SS  
CITY AND COUNTY OF SAN FRANCISCO )

On this 24<sup>th</sup> day of August, 1978, before me personally appeared Marvin L. Farenstein, to me personally known, who being by me duly sworn, says that he is the Vice-President of UNITED STATES LEASE FINANCING, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Walter J. Michael  
Notary Public

My commission expires: December 6, 1979

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS  
COUNTY OF PHILADELPHIA )

On this 30<sup>th</sup> day of August, 1978, before me personally appeared Richard T. Fox, to me personally known, who being by me duly sworn, says that he is the Vice President - Treasurer of CONSOLIDATED RAIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Mary Bringham  
Notary Public

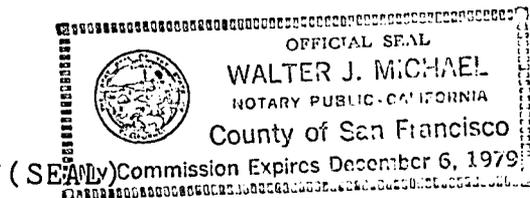
(SEAL)

My commission expires:

MARY BRINGHURST, NOTARY PUBLIC  
Philadelphia, Philadelphia County, Pa.  
My Commission Expires February 4, 1982

STATE OF CALIFORNIA )  
 )  
CITY AND COUNTY OF SAN FRANCISCO ) SS

On this 24<sup>th</sup> day of August, 1978, before me personally appeared F. R. Ashby, to me personally known, who being by me duly sworn, says that he is the Assistant Secretary of UNITED STATES LEASE FINANCING, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Walter J. Michael  
Notary Public

COMMONWEALTH OF PENNSYLVANIA )  
 )  
COUNTY OF PHILADELPHIA ) SS

On this 30<sup>th</sup> day of August, 1978, before me personally appeared Benjamin Harder, to me personally known, who being by me duly sworn, says that he is the an Assistant Secretary of CONSOLIDATED RAIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Mary Binghamhurst  
Notary Public

(SEAL)

My commission expires:

MARY BINGHAMHURST, NOTARY PUBLIC  
Philadelphia, Philadelphia County, Pa.  
My Commission Expires February 4, 1982

EXHIBIT A  
to  
EQUIPMENT LEASE

DESCRIPTION OF EQUIPMENT

<u>Quantity</u>	<u>*Description</u>	<u>Estimated Lessor's Cost (Per Item)</u>	<u>I.D. Numbers Inclusive</u>
5	Adzers Model CZ with (2) 17" cutter heads Manufactured by Rexnord, Inc.	17,325 each	TZ 1062 - TZ 1066
5	Tie Handlers, Model 2170 Manufactured by Railway Track Work Co.	22,102 each	TH 2153 - TH 2157
2	Spike Pullers, Model BF mechanical Spike complete with 16" wheels Manufactured by Rexnord, Inc.	18,600 each	SP 2111 and SP 2112
2	Tie Plug Inserters, Model W104, Series D, Manufactured by Fairmont Railway Motors, Inc.	8,864 each	TD 2060 and TD 2061
10	Scarifier Inserters Model W87, Series E, Manufactured by Fairmont Railway Motors, Inc.	36,216 each	TB 1449 - TB 1458
7	Tie Cutters Model W114, Series B Manufactured by Fairmont Railway Motors, Inc.	48,925 each	TA 1430 - TA 1436
3	Dual Tie Plug Inserters, Model W104 Series DZ28, Manufactured by Fairmont Railway Motors, Inc.	11,151 each	TD 1006 - TD 1008
1	Switch Tamper, Model EAS Mark I Manufactured by Can-Ron Rail Group	64,000 each	ME 4048
3	15-ton Hi Rail Truck Cranes with 30" standard lattice boom Model 32R with Model LG carrier Manufactured by Little Giant	110,650 each	CT 1544 - CT 1546
3	On track cranes 12 1/2 ton capacity Model 40 w/40" Magnet (Copper), Hoist block and 3/4 yard bucket Manufactured by Burro Crane, Inc.	175,000 each	CB 4163 - CB 4165
3	Crawler cranes, 10 1/2 ton	69,300 each	CC 1046 - CC 1048

capacity Model C-32 w/magnet and  
1/2 yard clam shell bucket  
Manufactured by Little Giant

6	Ballast Regulators, Model PBR 103 Manufactured by Plassar American Corp.	49,000 each	BR 1291 - BR 1296
1	Tie End Sweep with Center Line Scriber, Manufactured by RMC Division, Portec, Inc.	28,100 each	TE 2002
1	Brush Cutter, Model HD28, Manufactured by RMC Division, Portec, Inc.	82,636 each	WC 2054
4	Rough terrain cranes Model =30 CWRH with 2 west coast rearview mirrors, steering lock (rear), turntable slewing lock, heavy duty "Goodrich" brakes, defroster, GMG 6V-53N50 engine w/transmission, automatic engine shutdown, Fairlead rollers for Aux. boom line and transmission warning light Manufactured by Pettibone	103,474 each	CH 1521 - CH 1524
3	Rail Heaters, Propane type Model Dual CWR Heater, Manufactured by Teleweld, Inc.	15,500 each	RE 1023 - RE 1025
3	Jordan Spreaders Model 4-100 Manufactured by Jackson-Jordan	191,175 each	CR 64621 - CR 64623
7	30,000# Push Carts Manufactured by Railway Products Division Marmon, Inc.	2,990 each	PL 4329 - PL 4335
4	15 ton Hi Rail Truck Cranes with 30" Standard Lattice Boom Model 32R with Model LG Carrier Manufactured by Little Giant	110,650 each	CT 1547 - CT 1550
3	100 Ton Cranes	294,000 each	

\* Parts and accessories also included.

EXHIBIT B TO  
EQUIPMENT LEASE

CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_\_

Equipment Lease dated as of July 15, 1978 (the Lease) between UNITED STATES LEASE FINANCING, INC., as lessor (the Lessor) and CONSOLIDATED RAIL CORPORATION, as lessee (the Lessee).

1. Items of Equipment

The Lessee hereby certifies that the the Items of Equipment set forth and described in Schedule 1 hereto (which Schedule includes the amount of the Lessor's Cost of each such Item), have been delivered, tested and inspected by the Lessee, found to be in good order and accepted as Items of Equipment under the Lease, all on the dates indicated below:

Dates of Acceptance: As set forth in Schedule 1 hereto

2. Representations by the Lessee

The Lessee hereby represents and warrants to the Lessor and the Lender as such terms are defined in the Lease, that on the Date of Acceptance with respect to each Item of Equipment and on the date hereof:

(1) the representations and warranties of the Lessee set forth in the Participation Agreement, as such term is defined in the Lease, are true and correct in all material respects on and as of each such date as though made on and as of each such date;

(2) the Lessee has satisfied or complied with all requirements set forth in the Participation Agreement and in the Lease to be satisfied or complied with on or prior to each such date;

(3) no Event of Default under the Lease or event which, with the giving of notice or the lapse of time, or both, would become such an Event of Default has occurred and is continuing; and

(4) the Lessee has obtained, and there are in full force and effect, such insurance policies with respect to such Item of Equipment required to be obtained under the terms of the Lease.

CONSOLIDATED RAIL CORPORATION,  
as Lessee

By \_\_\_\_\_  
its

Dated: \_\_\_\_\_

Items of Equipment described above are hereby accepted on the Dates of Acceptance set forth in paragraph 1 above on behalf of the Lessor:

UNITED STATES LEASE FINANCING, INC.

By \_\_\_\_\_  
Authorized Representative of  
United States Lease Financing, Inc.

EXHIBIT B TO  
EQUIPMENT LEASE

SCHEDULE 1 TO  
CERTIFICATE OF ACCEPTANCE NO. \_\_\_\_\_

Description of Equipment and Lessor's Cost

Description\*

Lessor's Cost

\*(include Serial Number, name of manufacturer  
and all other important descriptive matters,  
list spare parts and accessories)

EXHIBIT C

First Delivery Date:	August 31, 1978.
Final Delivery Date:	December 31, 1978.
Rent Commencement Date for First Group: (all accrued Interim Rent for First Group due on this date)	October 17, 1978.
Rent Commencement Date for Second Group: (all accrued Interim Rent for Second Group due on this date)	January 17, 1979.
Expiration Date for First Group:	August 17, 1985.
Expiration Date for Second Group:	January 17, 1986.
Interim Rent Daily Factor:	.04548725%
Basic Lease Rate Factor:	8.187704%
First Basic Rent Date for First Group:	April 17, 1979.
First Basic Rent Date for Second Group:	July 17, 1979.
Basic Rent Dates for First Group:	Each April 17 and October 17.
Basic Rent Dates for Second Group:	Each January 17 and July 17.
Last Basic Rent Date for First Group:	October 17, 1985.
Last Basic Rent Date for Second Group:	January 17, 1986.
Overdue Rate:	12%
Return of Equipment:	Any location along the

Lessee's lines of  
railroad requested by the  
Lessor.

Lease Extension Periods:

Five (5) one-year terms.

Equipment Marking:

Property of Wells Fargo  
Leasing Corporation as  
Owner; and subject to a  
security interest in  
favor of The Philadelphia  
National Bank.

EXHIBIT D TO  
EQUIPMENT LEASE

EXHIBIT D

The Casualty Value of each Item of Equipment shall be the percentage of Lessor's Cost of such Item set forth opposite the Rent Commencement or applicable Basic Rent Date:

<u>DATE</u> <u>FIRST GROUP</u>	<u>DATE</u> <u>SECOND GROUP</u>	<u>CASUALTY VALUE</u>
10/17/78	1/17/79	112.7647
4/17/79	7/17/79	111.8648
10/17/79	1/17/80	108.8570
4/17/80	7/17/80	105.2226
10/17/80	1/17/81	100.7703
4/17/81	7/17/81	95.9153
10/17/81	1/17/82	83.8992
4/17/82	7/17/82	78.6282
10/17/82	1/17/83	72.9170
4/17/83	7/17/83	67.0112
10/17/83	1/17/84	54.0034
4/17/84	7/17/84	47.9383
10/17/84	1/17/85	41.9044
4/17/85	7/17/85	35.8551
10/17/85	1/17/86	20.0000
Thereafter	Thereafter	20.0000

In the event the Basic Lease Rate Factor is increased, pursuant to the tax indemnification provisions set forth in Section 15 of the Lease or pursuant to the Participation Agreement, Casualty Values will be adjusted accordingly.

EXHIBIT E  
(to the Lease)

DESCRIPTION OF OPINION OF  
COUNSEL FOR THE LESSEE  
TO BE DELIVERED ON THE  
FIRST DELIVERY DATE

The opinion of Joseph T. Rowan, Esq., Corporate Counsel for the Lessee, shall be dated the First Delivery Date and addressed to the Lessor, the Owner and the Lender shall be satisfactory in form and substance to such parties and shall be to the effect that:

1. The Lessee is a corporation duly organized, legally existing and in good standing under the laws of the Commonwealth of Pennsylvania and has full right, power and authority to carry on its business and own its property, to enter into, execute and deliver the Participation Agreement, Purchase Agreement and the Lease and to perform each and all matters and things required to be observed or performed by the Lessee thereunder.

2. The Participation Agreement, the Purchase Agreement and the Lease have been duly authorized by all necessary corporate action on the part of the Lessee and have been duly executed and delivered by the Lessee and such constitutes a legal, valid and binding obligation, contract and agreement of the Lessee enforceable in accordance with its respective terms.

3. No consent, approval or authorization of any governmental authority is required on the part of the Lessee in connection with the execution and delivery of the Participation Agreement, the Purchase Agreement or the Lease and the Lessee has complied with any applicable provisions of law applicable to the Lessee requiring the designation, declaration, filing, registration and/or qualification with any governmental authority in connection with the execution and delivery of said instruments. No opinion need be expressed or implied as to the necessity to register any of the documents referred to in the opinion, or any interest represented thereby or therein under the Securities Act of 1933, as amended, or the Trust Indenture Act of 1939, as amended, or the availability of any exemption from registration with respect to any of the foregoing under either such act.

4. The Lessee is duly authorized to conduct its business in each jurisdiction in which it operates and has

duly qualified and is in good standing as a foreign corporation in each jurisdiction where the failure to so qualify or be in good standing could adversely affect its ability to perform its obligations under the Participation Agreement, the Purchase Agreement or the Lease.

5. The execution and delivery by the Lessee of the Participation Agreement, the Purchase Agreement and the Lease and compliance by the Lessee with all of the provisions of the same will not conflict with nor result in any breach of any of the provisions of, or constitute a default under, or result in the creation of any lien upon any property of the Lessee or any subsidiary of the Lessee under the provisions of the certificate of incorporation or by-laws of the Lessee or of any indenture, mortgage, conditional sale, loan or credit agreement or other instrument to which the Lessee is, to the knowledge of such counsel, a party or by which it may be bound.

6. Assuming that either the Security Agreement or a financing statement naming the Lender as secured party and the Owner as debtor is filed in the appropriate public offices in the State of California within 10 days, the lender will have a perfected security interest and lien in the Equipment; except with respect to those items of Equipment for which certificates of title may be required, as to which Equipment the Lender will have a perfected security interest upon the notation of its security interest on such certificate of title.

7. Upon the delivery of the Original of the Prime Lease and Lease to the possession of the Lender, and so long as the Lender shall retain possession thereof, the Lender will have a perfected security interest in the Prime Lease and the Lease.

8. The Lease, the Prime Lease and the Security Agreement have been duly filed pursuant to Section 20c of the Interstate Commerce Act and, except as to any supplemental filings pursuant to Section 13(d) of the Participation Agreement, no refileing or rerecording with respect to the Lease, the Prime Lease or the Security Agreement is necessary in order to maintain the protection of the right, title and interest of Owner and the Lessor thereunder in and to the Equipment and to maintain the protection of the right, title and interest of the Lender under the Security Agreement.

The opinion may state that with respect to the legal, valid and binding nature of any agreement or instrument such opinion is subject in all respects to the limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditor's rights generally.