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RECORDATION NO. Filed 1425

AUG 28 1979 12 20 PM

INTERSTATE COMMERCE COMMISSION

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RECORDATION NO. 10770 Filed 1425

AUG 28 1979 12 20 PM

Date AUG 28 1979 INTERSTATE COMMERCE COMMISSION

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10770-B
RECORDATION NO. Filed 1425

AUG 28 1979 12 20 PM

INTERSTATE COMMERCE COMMISSION
Secretary

Interstate Commerce Commission
Washington, D.C. 20423

10770-A
RECORDATION NO. Filed 1425

AUG 28 1979 12 20 PM

INTERSTATE COMMERCE COMMISSION

Lease of Equipment dated as of April 6, 1979
between San Francisco Financial No. III, lessor,
and The Western Pacific Railroad Company, lessee.

Dear Sir:

Enclosed herewith for filing pursuant to 49
U.S.C. § 11303 is the Lease of Equipment dated as of
April 6, 1979, as amended and assigned to First Security
Bank of Utah, N.A., and the Security and Loan Agreement
dated as of July 1, 1979 among San Francisco Financial
No. III, First Security Bank of Utah, N.A., and General
American Life Insurance Company.

The parties to the transaction are:

Lessor: San Francisco Financial No. III, a partner-
ship composed of Steiner Sea, Air & Rail
Co. and AUCO Leasing Co.
c/o Steiner Sea, Air & Rail Co.
Spear Street Tower - Suite 2510
One Market Plaza
San Francisco, California 94105

Lessee: The Western Pacific Railroad Company
526 Mission Street
San Francisco, CA 94105

NOTE Please file in this order

- | | |
|---|---|
| 1) Security and Loan Agreement - C | 1) Lease of Equipment - <u>New Number</u> |
| 2) Lease of Equipment - A | 2) Lease Amendment No 1 - A |
| 3) Lease Amendment No. 1 - B | 3) Assignment of Lease - B |
| 4) Assignment of Lease & Agreement - C | 4) Security & Loan Agreement - C |

*Comuter part
John
Heath*

Lender: General American Life Insurance Company
700 Market Street
St. Louis, Mo. 63101

Secured
Party: First Security Bank of Utah, N.A.
(for the Corporate Trust Department
Lendor) 79 South Main Street
Salt Lake City, Utah 84111

The railroad rolling stock covered by the Lease
is:

30 bi-level auto racks on leased Trailer
Train flatcars; Lessee road numbers
WPB 701-730

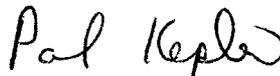
2 tri-level auto racks on leased Trailer
Train flatcars; Lessee road numbers
WPR 731-732

5 Wide deck implement flatcars, rebuilt
from cars in series PC 750000
Lessee road numbers WP 1902-1906

Please record one original of each document and
stamp the other four copies and the copy of this letter
enclosed herewith with the recordation date and return such
copies to the delivering messenger who will wait.

A check is enclosed in payment of the applicable
recording fee.

Very truly yours,



Paul Kepler
President,
Steiner Sea, Air & Rail Co.,
Managing partner of
San Francisco Financial No. III

PK/gm
Encs.

8/28/79

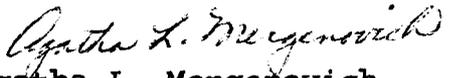
Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY
Paul Kepler

Dear **Sir**

The enclosed document (s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/28/79 at 12:20pm , and assigned re-
recording number(s). 10770,A,B,C,

Sincerely yours,


Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

Acct# 10770

Lease of Equipment

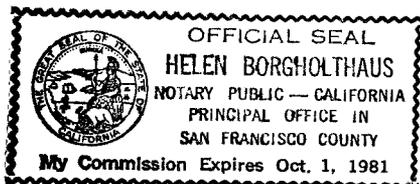
[Heads in Lease
See Transmittal 3/81]

CERTIFICATE OF A NOTARY PUBLIC

I, HELEN BORGHOLTHAUS, do hereby certify that:

(i) I have compared the attached copy of the Lease of Equipment dated as of April 6, 1979, between San Francisco Financial No. III as Lessor and the Western Pacific Railroad Company as Lessee, as amended and assigned to First Security Bank of Utah, N.A., with the original document; and

(ii) The attached copy is a true and correct copy of the original in all respects.



Helen Borgholthaus
Notary Public

RECORDATION NO. 10770
Filed 1425

AUG 28 1979 - 12 20 PM

INTERSTATE COMMERCE COMMISSION

ORIGINAL

LEASE OF EQUIPMENT

Dated as of April 6, 1979

Between

SAN FRANCISCO FINANCIAL NO. III

as
LESSOR

and

THE WESTERN PACIFIC RAILROAD COMPANY

as
LESSEE

25 40' FTP Trailers

AUDITOR'S DOCUMENT NO. 13187

LEASE OF EQUIPMENT dated as of April 6, 1979, between THE WESTERN PACIFIC RAILROAD COMPANY (hereinafter called the Lessee), and SAN FRANCISCO FINANCIAL NO. III, a partnership (hereinafter, together with its successors and assigns, being called the Lessor).

WHEREAS, the Lessor has entered into a purchase order assignment (hereinafter called the Purchaser Order Assignment), with Roadway Systems, Inc. (hereinafter called the Builder) wherein the Builder has agreed to sell and deliver to the Lessor the units of equipment described in Schedule A hereto (hereinafter called the Equipment);

WHEREAS, the Lessor intends to assign all of its rights hereunder and in the Equipment and in certain other equipment and the related lease to Lessee to a lender or lenders (the Lender) under a Security and Loan Agreement to be dated the date hereof (such agreement being hereinafter called the Security Document);

WHEREAS, the Lessee desires to lease all the units of the Equipment, or such lesser number (hereinafter called the Units) as are delivered and accepted and settled for hereunder at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

SECTION 1. DEFINITIONS.

Definitions. Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Lease.

"Basic Rent" for a Unit shall mean the aggregate rent payable throughout the Term of such Unit pursuant to Section 3(b) hereof.

"Casualty Occurrence" shall mean, as to any Unit, the Unit becoming worn out beyond repair, lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise.

"Certificate of Delivery" shall mean a Certificate of Delivery, in the form attached hereto as Exhibit I, which shall particularly describe a Unit and evidence delivery and acceptance of such Unit.

"Code" shall mean the United States Internal Revenue Code of 1954, as amended.

"Cut-Off Date" shall mean April 30, 1979.

"Delivery Date" shall mean, for any Unit, the date on which such Unit becomes subject to the Lease upon delivery by the Builder to, and acceptance by, Lessor and Lessee as evidenced by the execution and delivery of a Certificate of Delivery covering such Unit and all other Units accepted on such Delivery Date.

"Event of Default" shall mean any of the events referred to in Section 15 hereof.

"Lease Agreement", "the Lease", "this Lease", "this Agreement", "herein", "hereunder", or other like words, unless the context otherwise requires, shall mean and include this Lease Agreement and each Lease supplement or amendment hereto from time to time entered into.

"Lessor's Cost" for a Unit shall mean the actual cost thereof expressed in terms of United States dollars (including freight charges, if any, from the Builder's plant to a point of delivery to Lessee, and any applicable sales or use taxes) as specified in Builder's invoices for such Unit or otherwise paid by Lessor.

"Rent" shall mean all rents however designated, including without limitation, Basic Rent, Holdover Rent, Renewal Term Rent, Elapsed Term Rent and Supplemental Rent collectively.

"Rental Payment Date" for a Unit shall mean (i) July 1, 1980, and (ii) each January 1 and July 1 thereafter to and including January 1, 1988 (or if any such date is not a business day in the State of Utah, the next business day).

"Stipulated Loss Value" for a Unit as of any Rental Payment Date for such Unit shall mean an amount determined by multiplying Lessor's Cost for such Unit by the applicable percentage specified in Exhibit B hereto.

"Supplemental Rent" shall mean any and all amounts, liabilities and obligations which Lessee is required to pay hereunder to Lessor or others, including Stipulated Loss Value payments, but excluding Basic Rent.

"Term" shall mean, in the case of each Unit, the term for which such Unit is leased hereunder pursuant to Section 3(a) hereof.

"Units" shall mean the twenty-five 40' trailers described in Schedule A hereto; a "Unit" shall mean one of such trailers.

SECTION 2. DELIVERY AND ACCEPTANCE OF UNITS.

The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor pursuant to the Purchase Order Assignment. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a Certificate of Delivery whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease; provided, however, that no Unit shall be accepted after and neither Lessor nor Lessee shall have any obligation with respect to any Unit delivered and accepted after, the Cut-Off Date.

SECTION 3. TERM AND RENT.

(a) Term. The Term for each Unit shall commence on the Delivery Date thereof and shall end on October 31, 1987, and Lessee agrees to pay to Lessor, as applicable, the amounts designated herein as Basic Rent, Holdover Rent, Renewal Term Rent, Elapsed Term Rent and Supplemental Rent.

(b) Basic Rent. "Basic Rent" shall be an amount equal to the following percentages of Lessor's Cost for each Unit subject to the Lease, payable by Lessee to Lessor in sixteen (16) consecutive semi-annual payments, commencing on July 1, 1980 and ending on January 1, 1988:

<u>Payment Numbers</u>	<u>Percentage</u>
1-7	6.5144%
8-9	7.2382%
10-16	7.9621%

(c) Holdover Rent. "Holdover Rent" shall be an amount equal to .044234 percent of Lessor's Cost for Units in each case to be paid by Lessee to Lessor for each Unit for each day between the date of termination of the Term of this Lease as to any Unit and the date of the return of such Unit pursuant to Section 5 herein.

(d) Renewal Term Rent. "Renewal Term Rent" shall be an amount equal to the fair market rental to be paid by Lessee to Lessor in semi-annual installments for the duration of the Term as extended pursuant to Section 21 herein.

(e) Elapsed Term Rent. "Elapsed Term Rent" shall be an amount equal to one-one hundredth-eightieth (1/180th) of the Renewal Term Rent to be paid by Lessee to Lessor for each Unit for each day between the termination of the Term of this Lease as extended pursuant to Section 21 herein as to any Unit and the date of the return of such Unit pursuant to Section 5 herein.

(f) Supplemental Rent. Lessee also agrees to pay to Lessor, or to whomsoever shall be entitled thereto, any and all Supplemental Rent promptly as the same shall become due and owing, and in the event of any failure on the part of Lessee to pay any Supplemental Rent, Lessor shall have all rights, powers and remedies provided for herein, or by law or equity, or otherwise, in the case of nonpayment of Basic Rent. Lessee will also pay to Lessor, on demand, as Supplemental Rent, to the extent permitted by applicable law, interest at a rate of ten percent (10%) per annum on any part of any installment of Rent not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Rent not paid when demanded by Lessor for the period until the same shall be paid.

(g) Method of Rental Payment. Lessee agrees to make all payments of Rent required hereunder by paying such sums to Lessor in irrevocable and immediately available Salt Lake City funds not later than 10:00 a.m. local Salt Lake City time, on each Rental Payment Date. Said funds may be

paid to Lessor either by wire transfer through the Federal Reserve System, or by deposit into Lessor's account with a Correspondent Bank of Lessor. If Lessee deposits said funds in Lessor's account with a Correspondent bank, Lessee shall instruct said Correspondent Bank to give Lessor timely wire advice of credit of said funds to Lessor's account not later than 10:00 a.m., local Salt Lake City time, on each Rental Payment Date. Lessee shall cause each Federal Reserve transfer or wire advice of payment hereunder to be made to the attention of Lessor's Trust Department, Corporate Division. Lessee shall notify Lessor in writing not later than two (2) weeks prior to the initial Rental Payment Date of the method Lessee has selected to transfer said funds; and, should Lessee change its method of payment hereunder Lessee shall notify Lessor in writing of such change not later than two (2) weeks prior to the next succeeding Rental Payment Date.

SECTION 4. REPRESENTATIONS AND WARRANTIES

(a) Lessor's Representations and Warranties.

LESSEE ACKNOWLEDGES AND AGREES (i) THAT THE EQUIPMENT IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY LESSEE, (ii) THAT LESSEE IS SATISFIED THAT THE SAME IS SUITABLE FOR ITS PURPOSES, (iii) THAT LESSOR IS NOT A MANUFACTURER OR INSTALLER THEREOF NOR A DEALER IN PROPERTY OF SUCH KIND, AND (iv) THAT LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, ANY REPRESENTATION OR WARRANTY OR COVENANT OF ANY KIND OR CHARACTER WITH RESPECT TO THE MERCHANTABILITY, FITNESS, CONDITION, QUALITY, DURABILITY OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION OR WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO, EXCEPT AS EXPRESSLY SET FORTH HEREIN. 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 (INCLUDING, WITHOUT LIMITATION, STRICT OR ABSOLUTE LIABILITY IN TORT OR BY STATUTE IMPOSED), LOSS OR DAMAGE CAUSED OR ALLEGED TO BE CAUSED DIRECTLY OR INDIRECTLY BY ANY 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 EQUIPMENT OR ANY RISKS RELATING THERETO, (iii) ANY INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATED PROFITS OR CONSEQUENTIAL DAMAGES, (iv) THE DELIVERY, OPERATION, SERVICING, MAINTENANCE,

REPAIR, IMPROVEMENT OR REPLACEMENT OF ANY EQUIPMENT, OR (v) ANY OTHER DAMAGES WHATSOEVER AND HOWSOEVER CAUSED.

Delivery of a Certificate of Delivery shall be conclusive evidence as between Lessee and Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee and the Lessee will make no claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

Unless an Event of Default shall have occurred and be continuing, Lessor agrees to assign, or otherwise make available to Lessee, such rights as Lessor may have under any warranty with respect to the Unit made by the Builder of such Unit, or any subcontractor or supplier of the Builder of any such Unit and any other claims against the Builder of such Unit, or any such subcontractor or supplier with respect to the Units.

(b) Lessee's Covenants, Representations and Warranties. Lessee covenants, represents and warrants that:

(i) Lessee is a corporation, duly organized and validly existing in good standing under the laws of Delaware and has the corporate power and authority, and is duly qualified and authorized to do business wherever necessary to carry on its present business and operations, and to own or hold under lease its properties and to perform its obligations under this Lease;

(ii) Lessee has the full power, authority, and legal right to enter into and perform this Lease, and the execution, delivery and performance of this Lease have been duly authorized by all necessary corporate action on the part of Lessee, do not require any stockholder approval, or approval or consent of any trustee which has not already been given, do not contravene any law, governmental rule, regulation, or order binding on Lessee or the Certificate of Incorporation or By-laws of Lessee, do not contravene the provisions of, or constitute a default under, or result in the creation of any lien or encumbrance upon the property of Lessee under any indenture, charter, mortgage, contract, or other agreement to which Lessee is a party or by which it or any of its subsidiaries may be bound or affected, or all consents, authorizations or approvals necessary from the holders of any indebtedness or obligations of Lessee have been obtained;

(iii) no mortgage, deed of trust, charter, lease, or other lien or security interest of any nature whatsoever which now covers or affects any property or interests therein of Lessee now attaches or hereafter will attach to any Unit except as may attach to Lessee's interest therein or in any manner affects or will affect adversely the Lessor's right, title and interest therein;

(iv) neither the execution and delivery by Lessee of this Lease, nor the consummation of any of the transactions by Lessee contemplated hereby, require the consent or approval of, the giving of notice to, or the registration with, or the taking of any other action in respect of, any federal, state or foreign governmental authority or agency other than those already obtained or taken;

(v) this Lease constitutes the legal, valid and binding obligation of Lessee enforceable against Lessee in accordance with the terms hereof; upon the Delivery Date for each Unit the Lessor will have good and valid title thereto, free from the interest of any third party, except as contemplated by the Security Document, and the Certificate of Delivery for each Unit, when executed and delivered by Lessee and accepted by the Lessor, will, without further action, subject such Unit to the Lease;

(vi) Lessee has filed or caused to be filed and will continue to file or cause to be filed throughout the Term of this Lease all domestic and foreign tax returns which are required to be filed and has paid or caused to be paid and will continue to pay or cause to be paid throughout the Term of this Lease all taxes shown to be due or payable on such returns or (except to the extent being contested in good faith and for the payment of which adequate reserves have been provided) on any assessment received by Lessee, to the extent that such taxes have become due and payable;

(vii) except for issuance of applicable certificates of title and/or appropriate filings under the California Commercial Code, no recording or filing is necessary in order to establish and protect the Lessor's title to, and interest in, any Unit or any payment of Rent as against Lessee and any third parties.

(viii) the location of each Unit will remain in the United States, Canada and Mexico and will be as contemplated in Section 8 and 9 hereof, and records will be maintained by

Lessee to demonstrate compliance therewith;

(ix) the acts referred to in subparagraph (vii) hereof will have been duly made, and all fees in connection therewith will have been paid by Lessee, with respect to all Units to be settled for hereunder in advance of the Closing Date for each such Unit.

Notwithstanding the foregoing provisions of this Section 4(b) (ix), Lessee will take whatever action is required so as to maintain the Lender's and Lessor's respective interests in any Unit, or any payment of Rent at any time during the Term of this Lease.

(x) Lessee is not a "national" of any foreign country designated in Executive Order No. 8389, as amended, or of any "designated enemy country" as defined in Executive Order No. 9193, as amended, of the President of the United States, within the meaning of said Executive Orders, as amended, or of any regulations, interpretations, or rulings issued thereunder, or a "national" of any designated foreign country within the meaning of the Foreign Assets Control Regulations or the Cuban Assets Control Regulations of the United States Treasury Department, 31 Code of Federal Regulations, Subtitle B, Chapter V, or of any regulations, interpretations, or rulings issued thereunder;

(xi) ownership of the Units by Lessor will entitle Lessor to the benefit of any one of the accelerated methods of depreciation as provided in Section 167(b) of the Code calculated on the basis of a 7-year life pursuant to ADR guideline class.00.27 as provided in Section 167(m) of the Code, switching to the straight-line method at will without the prior consent of the Commissioner of Internal Revenue, to a salvage value of 10% of Lessor's Cost, and the benefit of the 10% investment credit under Section 38 of the Code, in each case, as to 100% of Lessor's Cost, and payment or accrual of interest under the Security Document will entitle Lessor to a deduction of such interest as provided in Section 163(a) of the Code; and

(xii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code; and the Units will not be used in such manner as to cause the loss of the benefit of the 10% investment credit under Section 38 of the Code; the Units are expected to have a useful life of at least ten

(10) years and at the end of the initial Term hereof, the Units will have a fair market value of at least 20% of Lessor's Cost.

(xiii) On the first Closing Date and on reasonable request thereafter as required by the Lender the Lessee will deliver to the Lessor two counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor and the Lender, in scope and substance satisfactory to the Lessor, the Lender and their respective counsel, to the effect that the Lessee's covenants, representations and warranties set forth above are true and will deliver such other instruments or documents as shall be reasonably requested in order to evidence compliance with the warranties and covenants of Lessee herein. Lessee agrees that it shall use its best efforts to permit compliance by the Lessor and the Builder, respectively, with the conditions precedent set forth in the Security Document.

SECTION 5. RETURN OF UNITS.

(a) Not later than sixty (60) days after the termination of this Lease as to any Unit at the end of the Term with respect thereto, Lessee, at its own cost, expense and risk, will return such Unit by delivering the same to Lessor on suitable property of Lessee, as designated by Lessor, or at nearby facilities, or at such other location as may be agreed upon by Lessor and Lessee and will permit Lessor to store such Unit on such property for a period not exceeding four (4) months after the date of return of such Unit. For each day elapsed between the date of the termination of this Lease as to any Unit at the end of the Term with respect thereto and the date of the return of such Unit pursuant to the preceding sentence of this Section 5(a), Lessee agrees to pay to Lessor Holdover Rent as defined in Section 3(c) hereof for such Unit if returned after expiration of original Term and Elapsed Term Rent as defined in Section 3(e) hereof if returned after expiration of the Term as extended, such amount to be payable to Lessor not later than five (5) business days after the date of return of such Unit. At the time of such return, such Unit shall be owned by the Lessor free and clear of all liens, encumbrances and rights of others (except such as may result from liens against the Lessor not related to the ownership of such Unit) and shall be in as good operating condition as when delivered to Lessee hereunder, ordinary wear and tear excepted.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within sixty (60) days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the per diem interchange rate for such Unit for each such day exceeds the actual earnings received by the Lessor on such Unit for each such day.

(b) The delivery and storage of such Unit as hereinbefore provided shall be at the expense and risk of Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to deliver and store such Unit. During any storage period, Lessee will permit Lessor, or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

(c) Without in any way limiting the obligations of Lessee under the foregoing provisions of this Section 5, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of any Unit to Lessor, to demand and take possession of such Unit in the name and on behalf of Lessee from whomsoever shall be at the time in possession of such Unit.

SECTION 6. MORTGAGES, LIENS, ETC.

Lessee will not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or other security interest or claim on or with respect to any Unit, title thereto or any interest therein or in this Lease, except (i) the respective rights of Lessor and Lessee as herein provided and rights created under the Security Document, (ii) the rights of others under agreements or arrangements to the extent expressly permitted by the terms of Section 9 hereof, (iii) liens or encumbrances which result from claims against Lessor not arising in connection with the ownership of such Unit, (iv) liens for taxes either not yet due or being contested in

good faith (and for the payment of which adequate reserves have been provided) by appropriate proceedings so long as such proceedings do not involve any danger of the sale, forfeiture or loss of any Unit or interest therein, (v) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business and not delinquent, and (vi) liens arising out of judgments or awards against Lessee with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and with respect to which there shall have been secured a stay of execution pending such appeal or proceeding for review. Lessee will promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest or claim not excepted above if the same shall arise at any time.

SECTION 7. TAXES.

Lessee agrees to pay, and to indemnify and hold the Lessor and the Lender harmless from all license and registration fees and all taxes, including, without limitation, income, gross receipts, franchise, sales (except sales or use tax on original acquisition), use, personal property, stamp, value-added, customs, export or other taxes, levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon) imposed against any such party or any Unit by any federal, state or local government or taxing authority in the United States or by any foreign government or any subdivision thereof upon or with respect to any Unit, or upon the purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon the income or other proceeds received with respect to a Unit until possession of such Unit has been delivered to Lessor in accordance with Section 5 hereof, or upon or with respect to this Lease, or the Security Document, (excluding, however, Federal taxes on, or measured by, the net income of any party and taxes, fees or other charges of any other jurisdiction which are based on, or measured by, the net income of any such party and (i) imposed by the jurisdiction in which the principal office of such party is located or (ii) imposed by any other jurisdiction in which such party is subject to taxes, fees or other charges as the result, whether solely or in part, of business or transactions unrelated to this Lease, and excluding any taxes on or measured

by any fees or compensation received by the Lessor for services rendered in connection with the transactions contemplated hereby, and further excluding any United States taxes based on gross income of any party (other than gross receipts taxes) which may hereafter be imposed as a substitute for and not in addition to taxes based on net income) unless, and to the extent only, that any such tax, levy, impost, duty, charge or withholding is being contested by Lessee in good faith and by appropriate proceedings so long as such proceedings do not involve any danger of the sale, forfeiture or loss of any Unit or interest therein. In case any report or return is required to be made with respect to any obligation of Lessee under this Section 7 or arising out of this Section 7, Lessee will either make such report or return in such manner as will show the ownership of each Unit in the Lessor and send a copy of such report or return to Lessor or will notify Lessor of such requirement and make such report or return in such manner as shall be satisfactory to Lessor. All accounts payable by Lessee pursuant to this Section 7 shall be payable, to the extent not theretofore paid, on written demand by the party entitled to indemnification. All of the indemnities contained in this Section 7 shall continue in full force and effect notwithstanding the expiration or other termination of this Lease and are expressly made for the benefit of, and shall be enforceable by, Lessor and the Lender and their respective successors and assigns.

SECTION 8. MAINTENANCE AND OPERATION.

Lessee, at its own cost and expense, shall maintain, service, repair and overhaul each Unit so as to keep it in as good operating condition as when delivered to Lessee hereunder, ordinary wear and tear excepted. Lessee agrees that no Unit will be maintained, used or operated in violation of any law or any rule, regulation or order of any government or governmental authority having jurisdiction (domestic or foreign) with respect to such Unit.

Lessee agrees, for the benefit of the Lessor and the Lender, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title,

operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Lender, adversely affect the property or rights of the Lessor or the Lender under this Lease or under the Security Document. The Lessee, at its own cost and expense, may furnish additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee.

Except as otherwise provided in the next preceding paragraph, any and all additions to any Unit and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Document) shall immediately be vested in the Lessor and the Lender as their respective interests appear in the Unit itself.

SECTION 9. POSSESSION.

This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively).

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or

discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Lender or resulting from claims against the Lessor or the Lender not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Lender or the Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises. 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 Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as the Lessee shall not be in default under this Lease, Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America or Canada or Mexico. The Lessee may receive and retain compensation during the Term for such use from other railroads so using any of the Units.

Nothing in this Section 9 shall be deemed to restrict the right of the Lessee to assign or transfer with the consent of the Lessor (which will not be unreasonably withheld) its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Security Document) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger or consolidation, be in default under any

provision of this Lease.

SECTION 10. IDENTIFICATION MARKS.

Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and such with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Lender's title to and property in such Unit and the rights of the Lessor under this Lease and of the Lender under the Security Document. The Lessee will not change the identifying number of any Unit unless and until a statement of new number or numbers to be substituted therefor shall have been filed with the Lender and the Lessor and all filings required by any applicable law, rule or regulation shall have been made.

The Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; provided, however, that the Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

SECTION 11. CASUALTY OCCURRENCE.

Lessee shall give written notice to Lessor and Lender promptly after it has determined that a Casualty Occurrence has occurred, and shall elect one of the following two alternatives:

(i) On the Rental Payment Date immediately succeeding the date on which Lessee has notified Lessor that a Casualty Occurrence has occurred, pay to Lessor an amount equal to the sum of (A) all Rent with respect to such Unit due on or prior to such Rental Payment Date or, in the case of Supplemental Rent, due in consequence of such Casualty Occurrence, and (B) the Stipulated Loss Value for such Unit computed as of such Rental Payment Date; in the event of payment in full of such Rent and Stipulated Loss Value, the obligation of Lessee to pay Basic Rent hereunder with respect to such Unit on any Rental Payment Date after such Rent and Stipulated Loss Value payment shall have been made shall terminate, and (except in the case of loss, theft or

complete destruction) the Lessor shall be entitled to possession of such Unit. Lessor may appoint the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence at the best price obtainable on an "as is, where is" basis, and, provided that Lessee has previously paid the Stipulated Loss Value to Lessor, the Lessee shall be entitled to the proceeds of any disposal up to the Stipulated Loss Value of such Unit, and shall pay any excess to the Lessor; or

(ii) Lessee shall duly convey to the Lessor as replacement for such Unit title to another Unit of the same type and quality and depreciable at the same rate and to the same extent as the Unit replaced, owned by Lessee free and clear of all liens, encumbrances or rights of others whatsoever and having a value and utility at least equal to, and being in as good operating condition as, the Unit with respect to which such Casualty Occurrence occurred, assuming that such Unit was in the condition and repair required by the terms hereof immediately prior to the occurrence of such Casualty Occurrence; and, upon such conveyance, Lessee, at its own expense, will promptly (a) furnish the Lessor with a Bill of Sale, in form and substance satisfactory to the Lessor, with respect to such replacement Unit, (B) duly execute and deliver a Certificate of Delivery in form satisfactory to the Lessor, subjecting such replacement Unit to this Lease, (C) furnish Lessor with such evidence of Lessee's title to such replacement Unit (including, if requested, an opinion of Lessee's counsel) and of the condition of such replacement Unit as Lessor may reasonably request and (D) take such other action as Lessor may reasonably request in order that such replacement Unit be duly and properly titled in the Lessor and leased hereunder and subject to the Security Document to the same extent as the Unit replaced thereby; provided, however, that if Lessee's election to provide a replacement Unit results in the recapture of any depreciation deduction or investment credit, then Lessee shall pay to Lessor an indemnity calculated as provided in Section 13. Upon full compliance by Lessee with the terms of this subparagraph (ii), Lessor will execute and deliver the Certificate of Delivery with respect to such replacement Unit and transfer to Lessee, without recourse or warranty (except with respect to its own acts), all Lessor's right, title and interest, if any, in and to the Unit with respect to which such Casualty Occurrence occurred. Thenceforth, for all purposes hereof, each such replacement Unit shall be deemed a Unit as defined herein.

Lessee's election shall be by written notice given to Lessor on or before the Rental Payment Date immediately succeeding the date on which Lessee notifies Lessor that a Casualty Occurrence has occurred and, if alternative (ii) above is elected by Lessee, shall be fully performed within thirty (30) days after the date of such notice.

SECTION 12. INSURANCE.

(a) Insurance: Public Liability and Property Damage. Lessee will, without cost to Lessor or any other named insured (other than Lessee), carry or cause to be carried with commercial insurers of recognized responsibility insurance, payable in United States Dollars, with respect to the Units which is of the type and amounts usually carried by corporations engaged in the same or similar business, similarly situated with Lessee, and owning or leasing units of the same or comparable type and which covers risks of the kind customarily insured against by such corporations, including public liability and property damage and risk of physical loss insurance with respect to the Units. This insurance shall be in no event less than the public liability and property damage insurance applicable to other units of equipment of same or comparable type operated by Lessee.

(b) Reports: Payments. Unless the Lessor waives the following requirements in writing to the Lessee, Lessee will furnish Lessor concurrently with the execution hereof and thereafter at intervals of not more than twelve (12) calendar months, a detailed report signed by an independent insurance broker with respect to the insurance carried on the Units, together with the opinion of such brokers as to its compliance with the provisions of this Section 12. Lessee will cause such firm to agree to advise Lessor promptly of any lapse of any such insurance by expiration, failure to renew, or otherwise, or of any default of payment in any premium and of any other act or omission on the part of Lessee of which it has knowledge and which might, in its opinion, invalidate or render unenforceable, in whole or in part, any insurance on Units. Lessee will also cause such firm to agree to mark its records and use its best efforts to advise Lessor, at least five (5) business days prior to the expiration date of any insurance carried pursuant to this Lease, that said insurance has been renewed or replaced with new insurance which complies with the provisions of this Section 12, and such advice shall be in the same detail

in respect of such renewed or replacement insurance as is required in respect of insurance described in the aforementioned report.

All insurance shall be taken out in the name of Lessor and Lessee, as their interests may appear. The policies or certificates shall provide that there shall be no recourse against Lessor for the payment of premiums, and shall provide for at least twenty (20) business days' prior written notice to be given to Lessor by the underwriters in the event of cancellation.

All insurance policies or certificates shall provide that the losses thereunder shall be adjusted with the Lessee and shall be payable to Lessor; provided, however, that payment of \$10,000 or less may be made directly to Lessee where such payment is for damage not amounting to an actual or constructive total loss.

As between Lessor and Lessee it is agreed that all insurance proceeds received as the result of the occurrence of a Casualty Occurrence with respect to a Unit will be applied to the payment of Stipulated Loss Value, with any excess being payable to Lessor. As between Lessor and Lessee it is also agreed that the proceeds of any insurance for property damage loss not constituting a Casualty Occurrence with respect to a Unit will be applied in payment for repairs or for replacement property in accordance with the terms of Section 8 hereof, if not already paid for by Lessee, and any balance remaining after compliance with said Section 8 with respect to such loss shall be paid to the order of Lessor.

SECTION 13. INDEMNIFICATION AND EXPENSES.

(a) General Indemnity. The Lessee agrees to indemnify, protect and hold harmless the Lessor and the Lender from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of the Security Document or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use,

condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease.

(b) Indemnity for Loss of Depreciation or Interest Deductions or Investment Credit. For United States income tax purposes (and to the extent allowable for state and local tax purposes) (but only under the conditions and subject to the limitations set forth in Section 4(b)(xi) and 4(b)(xii) hereof), the Lessor intends as to all Units under this Lease, except replacement Units, to deduct accelerated depreciation on such Units under Section 167(b)(2) or (3) of the Internal Revenue Code of 1954, as amended (the "Code"); and to deduct interest paid under the Security Document, and to benefit from the 10% investment tax credit as allowed by Section 38 of the Code.

If for any Unit or any part thereof, there shall be a disallowance, elimination, reduction or disqualification ("Loss") in whole or in part of said deduction of accelerated depreciation, interest deduction or investment tax credit for such Unit, Lessee shall, upon request by the Lessor, pay to the Lessor additional Rent to compensate Lessor for the consequent Loss. The additional Rent payable in such connection shall be as reasonably calculated by the Lessor and shall include, without limitation, the amount of any interest or penalties assessed and taxes required to be paid in consequence of the payment of additional Rent and shall be calculated in such manner as will preserve to the Lessor the after-tax rate of return contemplated hereby.

For the purposes of this Section 13, a Loss shall occur upon the earliest of the date of (1) the happening of any event (such as disposition or change in use of any Unit) which may cause such Loss, or (2) the payment by the Lessor to the Internal Revenue Service of the tax increase resulting from such Loss, or (3) the adjustment of the tax return of Lessor to reflect such Loss. Lessee will also pay any interest, addition to tax, and penalties paid, or which would be payable to the taxing authority or jurisdiction if there were no other adjustments to said tax return; provided, however, that interest shall not run after the payment by Lessee to Lessor of the full amount of any

indemnification then requested by Lessor. Lessor shall be responsible for, and shall not be entitled to a payment under this Section on account of any loss due to one or more of the following events: (1) a disqualifying disposition due to the sale of the Units or the Lease thereof prior to any default by Lessee; (2) a failure to timely or properly claim depreciation, interest or investment tax credit deductions in respect of the Units in the tax return of Lessor; (3) Lessor does not have for any taxable year sufficient (i) gross income after all allowable deductions not including the deduction for accelerated depreciation which would otherwise be allowable with respect to any Unit or (ii) liability for tax after all credits which would otherwise be allowable with respect to any Unit; (4) a disqualifying change in the nature of Lessor's business or liquidation thereof; (5) a foreclosure by Lender or any person holding through Lessor a lien on the Units, which foreclosure results solely from an act of Lessor; (6) any event which by the terms of this Lease requires payment by Lessee of the Stipulated Loss Value, if such Stipulated Loss Value is thereafter actually paid by Lessee; (7) application of the provisions of Sections 56, 163(d), or 1348(b)(2) of the Code with respect to depreciation or interest deductions; or (8) any other fault of the Lessor which directly causes the loss of any of the aforesaid tax benefits; provided, however, that the execution and delivery of this Lease and the other documents herein referred to and the carrying out of the transactions contemplated herein and therein in accordance with the terms of this Lease and such other documents shall not be deemed to have caused the loss of such tax benefit under this clause (8).

(c) Contest of Disallowance of Tax Benefits. In the event a claim shall be made by the Internal Revenue Service or by a state or local taxing authority with respect to the disallowance of such investment credit or depreciation or interest deductions with respect to any Unit and Lessee shall be required to indemnify Lessor for the loss caused by such disallowance, Lessor hereby agrees to take such action in connection with contesting such claim as Lessee shall reasonably request from time to time, provided, however, that: (i) within thirty (30) days after notice by Lessor to Lessee of such claim, Lessee shall request that such claim be contested; (ii) Lessor at its sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with Internal Revenue Service or the state or local taxing authority in respect of such claim

and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United States District Court and/or the United States Court of Claims, as Lessor shall elect, or contest such claim in the Tax Court of the United States, or in the appropriate state or local court of competent jurisdiction, considering, however, in good faith such request as Lessee shall make concerning the most appropriate forum in which to proceed; (iii) prior to taking such action, Lessee shall have furnished Lessor with an opinion of its tax counsel to the effect that there is a substantial likelihood of the success of a defense to such claim; and (iv) Lessee shall have indemnified Lessor in a manner satisfactory to it for any liability or loss which Lessor may incur as the result of contesting such claim and shall have agreed to pay Lessor on demand all costs and expenses which Lessor may incur in connection with contesting such claim including, without limitation, (A) reasonable attorneys' and accountants' fees and disbursements, (B) the amount of any interest or penalty which may ultimately be payable as the result of contesting such claim, and (C) in the event Lessor shall pay the tax claimed and then seek a refund and the final determination of such claim shall be adverse to Lessor, interest as charged by the Internal Revenue Service on the amount of the tax paid attributable to the portion of the investment credit or depreciation or interest deduction disallowed by such claim, computed from the date of payment of such tax to the date Lessee shall reimburse Lessor for the payment of such tax. If any such claim referred to above shall be made by the Internal Revenue Service or by a state or local taxing authority and Lessee shall have reasonably requested Lessor to contest such claim as above provided and shall have duly complied with all of the terms of this Section 13, Lessee's liability with respect to the investment credit or depreciation or interest deduction disallowed by such claim shall become fixed upon final determination of Lessor's liability for the tax claimed and after giving effect to any refund obtained, together with interest thereon; but in all other cases the liability of Lessee shall become fixed at the time Lessor makes payment of the tax attributable to the portion of the investment credit or depreciation or interest deduction lost. In the case of any such claim by the Internal Revenue Service or by a state or local taxing authority referred to above, Lessor agrees to promptly notify Lessee in writing of such claim and agrees not to make payment of the tax claimed for at least thirty (30) days after the giving of such notice and agrees to give to

Lessee any relevant information relating to such claim which may be particularly within the knowledge of Lessor and shall otherwise cooperate with Lessee in good faith in order to effectively contest any such claim.

(d) Application and Continuance of Indemnities. The indemnities contained in paragraph (a) of this Section 13 shall apply whether or not any Unit is delivered hereunder. Except as otherwise provided, the indemnities contained in this Section 13 shall continue in full force and effect notwithstanding the expiration or other termination of this Lease.

(e) Stipulated Loss Value - Indemnity. If any event requiring payment of Stipulated Loss Value for any Unit does not result in the loss of the investment tax credit or depreciation or interest deduction for such Unit, as the case may be, the Stipulated Loss Value shall be adjusted by deducting therefrom the amount, if any, included therein which represents reimbursement to Lessor for such loss and if Lessor fails to obtain any economic benefit to Lessor reflected in Stipulated Loss Value as a result of tax treatment other than that contemplated by the principles upon which Exhibit B hereto was computed, whether or not Lessee is required to indemnify Lessor for such failure, the Stipulated Loss Value shall be adjusted to reflect such tax treatment in accordance with the principles on which Exhibit B hereto was computed; provided, however, that the Stipulated Loss Value for any Unit at any time after giving effect to such adjustment shall not be less than the aggregate of the accrued interest on, and unpaid principal under the Security Document in connection with such Unit outstanding at such time.

(f) Rental Adjustment For Lessee's Capital Expenditures. In the event and to the extent that the cost of any improvement and/or addition (hereinafter called Capital Expenditures) to a Unit 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 Unit is disposed of in a taxable transaction, then the rentals for the Units set forth in Section 3 hereof shall, on the next succeeding rental payment date after the date on which the Lessee is required to furnish written notice thereof to the Lessor pursuant to the last paragraph of this subsection (f) after said inclusion in the Lessor's

gross income is required, be increased to such amount or amounts as shall, in the reasonable opinion of Lessor after taking into account any present or future tax benefits Lessor reasonably anticipates it will derive from its additional investment in the Units by reason of said inclusion (including without limitation any current deductions, future depreciation deductions and investment tax credit), cause Lessor's net return (calculated on the same basis as used by Lessor in originally evaluating this transaction) to equal the net return that would have been realized by Lessor if the cost of such Capital Expenditures had not been includible in the Lessor's gross income.

For purposes of this subsection the cost of Capital Expenditures made by the Lessee shall be deemed to be "required to be included in the gross income of Lessor for Federal income tax purposes" if such inclusion is required by (i) any private ruling letter issued to Lessor by the Internal Revenue Service that has not been revoked or otherwise rendered inapplicable at the time the cost of said Capital Expenditures is incurred; (ii) any provision of the Code or the applicable regulations thereunder; or (iii) any published revenue ruling of the Internal Revenue Service which has not been held invalid by a court having ultimate appellate jurisdiction over the Federal income tax liability of Lessor.

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 required to be included in the gross income of Lessor for Federal income tax purposes prior to the time such Unit is disposed of in a taxable transaction, the Lessee will give written notice thereof to the Lessor describing such Capital Expenditures in reasonable detail and specifying the cost thereof with respect to each Unit.

SECTION 14. INSPECTION.

At all reasonable times Lessor or its authorized representatives may inspect each Unit and the books and records of Lessee relative thereto. Lessor shall have no duty to make any such inspection and shall not incur any liability or obligation by reason of not making any such

inspection.

SECTION 15. EVENTS OF DEFAULT.

The following events shall constitute Events of Default (whether any such event shall be voluntary or involuntary or come about or be effected 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) Lessee shall fail to make any payment of Rent within ten (10) days after the same shall have become due;

(b) Lessee shall fail to carry or cause to be carried the insurance required by Section 12 of this Lease at any time during the Term of this Lease and such failure shall continue unremedied for a period of five (5) days after written notice thereof by Lessor;

(c) Lessee shall fail to perform or observe any covenant, condition or agreement to be performed or observed by it hereunder and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof by Lessor;

(d) any representation or warranty made by Lessee herein or in any document or certificate furnished Lessor in connection herewith or pursuant hereto shall prove to be incorrect at any time in any material respect; for the purposes of this Section 15(d), an incorrect warranty or representation by the Lessee shall be deemed to be immaterial so long as the Lessee, pursuant to its obligations under this Lease, fully indemnifies Lessor (to Lessor's satisfaction) for any loss suffered by Lessor as a result thereof;

(e) any obligation of Lessee for the payment of borrowed money or for the deferred purchase price of property shall not be paid when the same becomes due (other than by reason of acceleration) and the applicable grace period, if any, with respect thereto, as the same may be extended by consents or waivers, shall elapse, or any such obligation shall be accelerated and such acceleration shall not be rescinded or annulled within fifteen (15) days after the occurrence thereof; or an Event of Default shall occur under the Lease of Railroad Equipment of even date herewith

between Lessor and Lessee;

(f) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, 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 a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within thirty (30) days after such appointment, if any, or sixty (60) days after such petition shall have been filed, whichever shall be earlier;

(g) 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, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), 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 the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (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 a trustee or trustees or receiver or receivers, within thirty (30) days after such appointment, if any, or sixty (60) days after such proceedings shall have been commenced, whichever shall be earlier;

(h) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

(i) Final judgment for the payment of money in excess of \$1,000,000 or equivalent in other currency shall be rendered against Lessee and the same shall remain undischarged for a period of sixty (60) days during which execution of such judgment shall not be effectively stayed; provided that this paragraph (i) shall not be applicable to any final judgment for the payment of money, the amount of which shall be within the policy limits of applicable insurance and such insurer acknowledges to Lessor its liability under such insurance policies.

SECTION 16. REMEDIES.

Upon the occurrence of any Event of Default and at any time thereafter, Lessor may, at its option, declare this Lease to be in default; and at any time thereafter, so long as Lessee shall not have remedied all outstanding Events of Default, Lessor may do one or more of the following with respect to any or all of the Units as Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect:

(a) cause Lessee, upon the written demand of Lessor and at Lessee's expense, to promptly return such Unit as Lessor may demand to Lessor in the manner and condition required by, and otherwise in accordance with all the provisions of, Section 5 hereof as if such Unit were being returned at the end of the Term for such Unit; or Lessor, at its option, may enter upon the premises where such Unit is located and take immediate possession of and remove the same by summary proceedings or otherwise, all of which shall, to the maximum extent permitted by law, be without liability on the part of Lessor for or by reason of such entry or taking of possession, whether for the restoration of damage to property caused by such taking or otherwise;

(b) sell such Unit at public or private sale, as Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle such Unit as Lessor in its sole discretion, may determine, all free and clear of any rights of Lessee except as hereinafter set forth in this Section 16 and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto;

(c) terminate this Lease as to any or all Units, or exercise any other right or remedy which may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof; and

(d) Lessor shall be entitled to retain all rents and additional sums theretofore paid by Lessee or received by Lessor and Lessor may recover from Lessee all rents and additional sums accrued and unpaid hereunder as of the date that this remedy is exercised by Lessor; and in addition, Lessor may recover from Lessee as liquidated damages but not as a penalty, an aggregate sum, which at the time of any termination by Lessor of this Lease or of Lessee's rights thereunder, represents the excess if any of the then present value of all fixed rent, which would otherwise have been paid on account of the Units affected by such termination from the date of termination to the end of the term of this Lease over the then present value of the aggregate fair rental value of Units affected for the balance of such term or in the event that such Units are sold by Lessor, the net proceeds realized from such sale, such present value to be computed in each case on the basis of ten and one quarter percent (10 1/4%) per annum discount factor from the respective dates upon which such rents would have been payable hereunder had this Lease not been terminated.

In addition, Lessee shall be liable, except as otherwise provided above, for all legal fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit in accordance with the terms of Section 5 hereof or in placing such Unit in the condition required by said Section and including any loss referred to in Section 13 hereof. At any sale of a Unit pursuant to this Section, Lessor may bid for and purchase such property. Except as otherwise expressly provided above, no remedy referred to in this Section is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity; and the exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all of such other remedies. No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or

subsequent Event of Default. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use any Unit in mitigation of Lessor's damages as set forth in this Section 16 or which may otherwise limit or modify any of Lessor's rights or remedies under this Section.

Lessor agrees to give Lessee at least ten (10) days' prior written notice of any public sale of a Unit or of any private sale, lease for a term of more than one month or other private disposition of a Unit pursuant to paragraph (b) above, which notice, in the case of a private sale, lease or other private disposition, shall specify the price or rental and other relevant terms thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 16, 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 Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

SECTION 17. LESSOR'S RIGHT TO PERFORM FOR LESSEE.

If Lessee fails to make any payment of Supplemental Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor may itself make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the rate of ten percent (10%) per annum, shall be deemed Supplemental Rent, payable by Lessee upon demand.

SECTION 18. RECORDING; FURTHER ASSURANCES; FINANCIAL INFORMATION; ANNUAL REPORTS.

The Lessee will undertake all filing, registering, deposit, and recording required of the Lessor under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file,

register, record (and will refile, re-register, deposit and re-deposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Lender for the purpose of proper protection, to their satisfaction, of the Lender's and the lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Document or the assignment thereof to the Lender; and the Lessee will promptly furnish to the Lender and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lender and the Lessor.

Lessee will promptly and duly execute and deliver to Lessor such further documents and assurances and take such further action as Lessor may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of Lessor hereunder; provided, however, that this sentence is not intended to impose upon Lessee any additional liabilities not otherwise contemplated by this Lease. Lessee also agrees: (i) to make available to Lessor and Lender or their designated agents within 120 days after the close of each fiscal year of Lessee, copies of Lessee's annual report to stockholders, including financial statements, as certified by independent public accountants, including their certificate and accompanying comment; (ii) to furnish to Lessor and Lender within 120 days after the close of each fiscal year of Lessee, a certificate of Lessee, signed by a principal financial officer of Lessee, to the effect that the signer has reviewed the relevant terms of this Lease and has made, or caused to be made under his supervision, a review of the transactions and condition of Lessee during the accounting period covered by the financial statements referred to above, and that such review has not disclosed the existence during such accounting period, nor does the signer have knowledge of the existence as at the date of such certificate, of any condition or event which constitutes an Event of Default or which, after notice or lapse of time or both, would constitute an Event of Default, or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action Lessee has taken or is taking or proposes to take with respect thereto; and (iii) to furnish to Lessor and Lender from time to time such other

information as either may reasonably request.

On or before August 1 in each year, commencing with the year 1980, the Lessee will furnish to the Lessor and the Lender an accurate statement (a) setting forth as at the preceding June 30 the amount, description and numbers of all Units then leased hereunder and covered by the Security Document, the amount, description and numbers of all Units that Lessee has determined have suffered a Casualty Occurrence or are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repairs (other than running repairs) during the 12-month period preceding such June 30 and such other information regarding the condition and state of repair of the Units as the Lender may reasonably request and (b) stating that, in the case of all Units repaired or repainted during the period covered by such statement, the numbers and markings required by Section 5 and the Security Document have been preserved or replaced. The Lessor shall have the right, by its agents, to inspect the Units and Lessee's records with respect thereto at such reasonable times as the Lessor may request during the term of this Lease.

Within 120 days after the close of each of its fiscal years, the Lessee will promptly furnish to the Lessor and the Lender financial statements of Lessee or Lessee's parent, if any, for such fiscal year, including a consolidated balance sheet and income statement, prepared in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year and certified by such parent's independent public accountants and (b) Lessee's consolidated financial statements for such fiscal year (as filed with the Interstate Commerce Commission in form R-1), including a consolidated balance sheet, an income statement, prepared in conformity with generally accepted accounting principles or the regulations of the Interstate Commerce Commission, in either case applied on a basis consistent with the preceding year. Lessee shall also furnish to the Lessor and the Lender as soon as available, and in any event within 45 days after the end of each of the first three quarterly periods of each such fiscal year, copies of Lessee's Form RE&I and Form CBS comprising quarterly reports of consolidated revenue, expense and income and condensed consolidated balance sheets, respectively, for such quarterly period, as filed by the Lessee with the Interstate Commerce Commission.

No later than 120 days after receipt by the Lessee of a written request therefor from the Lessor or the Lender, the Lessee will deliver to the Lessor and the Lender a certificate signed by the president, any Vice President, the Treasurer or any Assistant Treasurer of the Lessee stating that a review of the activities of the Lessee during the last fiscal year ended prior to the date of such request has been made under his supervision with a view to determining whether the Lessee has kept, observed, performed and fulfilled all of its covenants and obligations under this Lease and the Security Document and that, to the best of his knowledge, the Lessee during such fiscal year has kept, observed, performed and fulfilled each and every covenant and obligation contained herein and in the Security Document, or if an Event of Default under this Lease or the Security Document shall exist or if an event has occurred which, with notice, demand and/or lapse of time, would constitute such an Event of Default, specifying such Event of Default or such event and the nature and status thereof.

SECTION 19. NOTICES.

All notices required under the terms and provisions hereof shall be in writing, and any such notice shall become effective when deposited in the United States mail, with proper postage for ordinary mail prepaid, addressed (i) if to Lessor, c/o Steiner Sea, Air & Rail Co., Spear Street Tower, One Market Plaza, San Francisco, California 94105, or at such other address as Lessor shall from time to time designate in writing to Lessee, (ii) if to Lessee, at 526 Mission Street, San Francisco, California 94105, Attn: Vice-President Finance, or at such other address as Lessee shall from time to time designate in writing to Lessor, or (iii) if to Lender, at the address specified by Lender from time to time in the manner set forth herein, with one copy of all such notices mailed to Steiner Sea, Air & Rail Co., at Spear Street Tower, One Market Plaza, San Francisco, California 94105.

SECTION 20. NO SET-OFF, COUNTERCLAIM, ETC.

The obligations of Lessee to pay all Rent hereunder shall be absolute and unconditional, and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Lessor, the Lender, the Builder or anyone else for any reason whatsoever, (ii) any

defect in the title, condition, design, operation or fitness for use of, or any damage to or loss or destruction of, any Unit or any interruption or cessation in the use or possession thereof by Lessee for any reason whatsoever, (iii) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or (iv) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise except as specifically provided herein, Lessee nonetheless agrees to pay to Lessor an amount equal to each Basic Rent payment at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part. Lessee hereby waives to the extent permitted by applicable law, 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 this Lease except in accordance with the express terms hereof. Each payment of Rent made by Lessee to Lessor shall be final as to Lessor and Lessee. Lessee will not seek to recover all or any part of any such payment of Rent from Lessor for any reason whatsoever.

SECTION 21. PURCHASE AND RENEWAL OPTIONS.

Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than six (6) months prior to the end of the original term or any extended term of this Lease, as the case may be, (i) elect to extend the term of this Lease in respect of all but not fewer than all of such Units then covered by this Lease, for consecutive one-year periods commencing on the scheduled expiration of the original term or any extended term of this Lease, as the case may be, provided that no such extended term extends beyond October 31, 1989, at a "Fair Market Rental" payable in semi-annual payments on January 1 and July 1 in each year of such extended term or (ii) elect to purchase all, but not fewer than all, the Units then covered by this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of the original or extended term of this Lease, as the case may be.

Fair Market Rental 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 (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four (4) months prior to the expiration of the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such value shall be determined in accordance with the foregoing definition by the American Appraisal Company or its successor (hereinafter called the Appraiser). The Appraiser shall be instructed to make such determination within a period of thirty (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 Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

Fair Market Value 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 buyer-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four (4) months prior to the expiration of the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the Units, such value shall be determined in accordance with the foregoing definition by the Appraiser. The Appraiser shall be instructed to make such determination within a period of thirty (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 Lessor and Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

Upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such

Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

SECTION 22. NON-RECOURSE.

Notwithstanding any other provision hereof, the parties understand and agree that in no event shall Lessor or its partners have any liability whatsoever to Lessee or any person claiming by, through or under Lessee, except with respect to Lessor's interest in the Equipment, which shall be Lessee's sole recourse, and Lessee hereby waives any such liability or further recourse.

SECTION 23. MISCELLANEOUS.

Any provision of this Lease which is 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 Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

No term or provision of this Lease may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in any Unit except as a lessee only. The captions in this Lease are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. This Lease shall in all respects be governed by, and construed in accordance with,

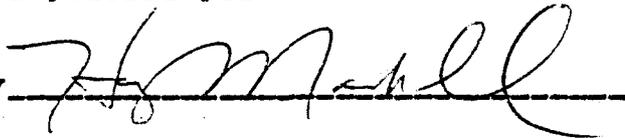
the internal laws, but not the law of conflicts, of the State of California, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and Lessee have each caused this Agreement to be duly executed as of the day and year first above written.

LESSOR

SAN FRANCISCO FINANCIAL NO. III
By Steiner Sea, Air & Rail Co.,
a general partner

By



[Seal]

Attest:

Title _____

LESSEE

THE WESTERN PACIFIC RAILROAD COMPANY

By



Title Sr. Vice President - Finance

[Seal]

Attest:



Title Corporate Secretary

SCHEDULE A TO LEASE

New 40' FRP trailers to be purchased by the
Lessor:

Quantity

Serial Numbers

25

EXHIBIT B TO LEASE

Schedule of Stipulated Loss Values

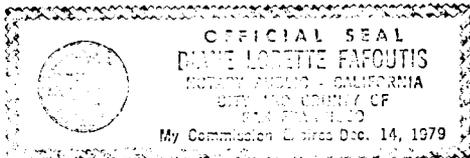
	<u>Applicable Payment Date</u>	<u>Percentage</u>
1	July 1, 1980	107.1830
2	January 1, 1981	105.8831
3	July 1, 1981	103.8265
4	January 1, 1982	101.3419
5	July 1, 1982	98.3305
6	January 1, 1983	88.5815
7	July 1, 1983	84.9913
8	January 1, 1984	80.5606
9	July 1, 1984	75.7923
10	January 1, 1985	63.6941
11	July 1, 1985	57.7247
12	January 1, 1986	51.6340
13	July 1, 1986	45.3458
14	January 1, 1987	32.6947
15	July 1, 1987	26.4474
16	January 1, 1988	20.0000

STATE OF CALIFORNIA ,)
) ss.:
COUNTY OF SAN FRANCISCO,)

On this 17th day of April, 1979, before me personally appeared R. W. STUMBO JR, to me personally known, who, being by me duly sworn, says that he is the ~~SALES~~ VICE PRESIDENT-FINANCE of THE WESTERN PACIFIC RAILROAD COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and 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 a free act and deed of said corporation.

Diane Lorette Lafoutis
Notary Public

[Notary Seal]



STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On this ____ day of _____, 1979, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is the _____ of Steiner Sea, Air & Rail Co., the corporation named in the within document, that the said corporation is a general partner of the partnership named in the within document, that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation and partnership by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was a free act and deed of said partnership.

Notary Public

[NOTARIAL SEAL]

