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10072
RECORDATION NO. Filed 1425
FEB 5 1979 -10 15 AM
INTERSTATE COMMERCE COMMISSION

10072-A
RECORDATION NO. Filed 1425
FEB 5 1979 -10 15 AM
INTERSTATE COMMERCE COMMISSION

No.
Date FEB 2 1979
Fee $ 60.00
ICC Washington, D. C

February 1, 1979

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

Re: Management Agreement between National Railway Utilization Corporation and Edith Carter dated December 29, 1978

Dear Mrs. Lee:

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

1. Three originals of Management Agreement dated as of December 29, 1978 between National Railway Utilization Corporation and Edith Carter;

2. Five originals of Certificate of Acceptance dated December 29, 1978 for inclusion of ten (10) railroad boxcars numbered NSL 151303 - NSL 151312.

The address of National Railway Utilization Corporation is 1100 Centre Square East, 1500 Market Street, Philadelphia, Pa. 19102. The address of Edith Carter is c/o Mr. Martin Ogintz, 795 Adams Street, Baldwin, New York 11510.

I enclose two checks, one in the amount of $10.00 as the cost for filing the Certificate of Acceptance, and one in the amount of $50.00 as the cost for filing the Management Agreement, both payable to the Interstate Commerce Commission.

I also enclose three executed originals of the Management Agreement and five executed originals of the Certificate of Acceptance. Please place one of each on file with your office, stamp the remaining documents and return them to me at the address on this letterhead.

Sincerely,

Carl Muller
Carl F. Muller

CFM:bjm
encs.

Interstate Commerce Commission

Washington, D.C. 20423

2/5/79

OFFICE OF THE SECRETARY

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

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 2/5/79 at 10:15am, and assigned recordation number(s) 10072 & 10072-A

Sincerely Yours,

H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

THIS AGREEMENT HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE APPLICABLE SECURITIES ACT OF ANY STATE. NO OFFER TO SELL, SALE OR OTHER TRANSFER OF THIS AGREEMENT OR THE RIGHTS HEREUNDER MAY BE MADE UNLESS A REGISTRATION UNDER SUCH ACTS IS IN EFFECT, OR AN EXEMPTION FROM THE REGISTRATION PROVISIONS OF SUCH ACTS IS THEN APPLICABLE.

RECORDATION NO. 10072 Filed
FEB 5 1979 -10 15
INTERSTATE COMMERCE COMMIS

MANAGEMENT AGREEMENT

THIS AGREEMENT, dated as of Dec. 29, 1978, between NATIONAL RAILWAY UTILIZATION CORPORATION, a South Carolina corporation ("NRUC"), and Edith K. Carter ("Owner").

W I T N E S S E T H:

WHEREAS, pursuant to a Commitment Agreement between Owner and NRUC of even date herewith (the "Commitment Agreement"), Owner has agreed to purchase a certain number of boxcars (the "Boxcars") as described therein, and has agreed to retain the services of NRUC as the Owner's agent for managing the Boxcars as provided herein; and

WHEREAS, NRUC is willing to accept such appointment as agent, and to perform management services for the account of Owner pursuant to the terms and conditions hereof;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto agree as follows:

1. Appointment of Agent; Acceptance. Subject to and in accordance with the terms and conditions of this Agreement, the Owner hereby appoints NRUC as agent of the Owner to manage the operation of the Boxcars for the account of and on behalf of the Owner and NRUC hereby accepts such appointment.

2. Term. The term of this Agreement with respect to each Boxcar shall commence on the date of execution of a Certificate of Acceptance with respect to such Boxcar as provided in Section 3 of this Agreement and shall continue for five and one-half (5-1/2) years thereafter, unless sooner terminated as hereinafter provided.

3. Delivery, Acceptance and Ownership of Boxcars.

(a) Upon delivery of each Boxcar to a point designated by NRUC (such delivery to be effected prior to any placement

in service of such Boxcar), NRUC will inspect the same and, if such Boxcar shall be found to be in good order, accept the same for the Owner by executing a Certificate of Acceptance in the form attached hereto as Exhibit "A". Upon execution of such Certificate of Acceptance such Boxcar shall be deemed to be subject to this Agreement. NRUC agrees to deliver to the Owner and to Orchard Capital Management, Inc. ("Orchard"), Owner having engaged Orchard to provide certain services to Owner in connection herewith, executed copies of each such Certificate of Acceptance. NRUC shall bear all costs of the inspection and certification of the Boxcars as herein provided. Except for Boxcars manufactured by NRUC, the manufacturer's invoice includes a $1,500 inspection and certification fee which will be paid directly by the manufacturer to NRUC.

(b) The execution of a Certificate of Acceptance as to each Boxcar by NRUC shall, inter alia, constitute a representation and warranty by NRUC that (i) such Boxcar has been manufactured in accordance with specifications approved by NRUC; (ii) such Boxcar meets all standards for boxcars of similar class imposed by government and industry authorities the rules or regulations of which may be applicable; (iii) the original use of such Boxcar within the meaning of Treasury Regulation 1.167(c)-1(a)(2) will be deemed to commence with the Owner; (iv) such Boxcar will constitute "new Section 38 property" within the meaning of Treasury Regulation 1.48-2(a); (v) such Boxcar will be first placed in service within the meaning of Treasury Regulation 1.167(a)-11(e)(1) on the date of the Certificate of Acceptance; and (vi) NRUC has caused the Owner to be named as an additional insured under its combined single limit liability insurance policy and has caused such Boxcar to be specifically referenced in such policy.

(c) The parties agree that the Owner shall at all times be and remain the owner of the Boxcars, and that nothing in this Agreement is in any way intended to grant any ownership interest or property right in the Boxcars to NRUC or to any railroad whose markings appear on the Boxcars. Further, NRUC will not directly or indirectly create or suffer to exist, any mortgage, pledge, lien, charge, encumbrance, or other security interest or claim on or with respect to the Boxcars in favor of persons claiming through or under NRUC or through or under any railroad whose markings appear on the Boxcars. NRUC will promptly, at its expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance, security interest or claim in favor of persons claiming through or under NRUC or through or under any railroad whose markings appear on the Boxcars, and shall indemnify Owner and hold the Owner harmless from and against all claims, damages and expenses arising out of any such third party claim.

4. Powers, Duties, and Responsibilities of NRUC. The agency and management functions, and the powers, duties and responsibilities of NRUC hereunder, shall include those specifically set

forth in this Section 4 and such other duties and responsibilities as shall be set forth elsewhere in this Agreement and as shall be agreed upon from time to time by the parties hereto:

a) NRUC shall manage and arrange for the utilization of the Boxcars in per diem service integrated with the per diem service utilization of the fleet of Boxcars managed by NRUC for its own account and the accounts of others and shall perform all necessary administrative acts to ensure the proper and maximum utilization of said Boxcars for the benefit of Owner and for the protection of the Owner's interest therein.

(b) NRUC shall make available for the Boxcars the markings of a railroad owned or controlled by NRUC. NRUC agrees that on or before delivery of the Boxcars to NRUC and prior to NRUC executing a Certificate of Acceptance, NRUC, at its expense, shall cause the Boxcars to be lettered with proper railroad markings and the name and/or other insignia used by such railroad. Such names and/or insignia shall comply with all applicable regulations of the Interstate Commerce Commission ("ICC") and the Association of American Railroads ("AAR") and any other government or industry agency or association the rules or regulations of which may be applicable.

(c) NRUC shall prepare for filing and shall cause to be filed in a timely manner all documents relating to the registration, maintenance and record keeping functions for the Boxcars in accordance with the rules and regulations of the AAR, ICC, Department of Transportation ("DOT") and any other government or industry authority. Such matters shall include, but shall not be limited to, the preparation and timely filing of documents as follows: (i) NRUC shall, at its expense, file a counterpart of this Agreement and of each Certificate of Acceptance delivered to Owner hereunder with the ICC pursuant to Section 20c of the Interstate Commerce Act; (ii) NRUC shall cause the registration of each Boxcar in the Official Railway Equipment Register ("ORER") and the Universal Machine Language Equipment Register ("UMLER") directing, among other things, that all correspondence from railroads using such Boxcars shall be addressed to NRUC; and (iii) NRUC shall prepare and cause to be filed such reports as may be required from time to time by the ICC and/or other regulatory agencies with respect to the Boxcars. Any record keeping performed by NRUC and all records of payments and charges and all correspondence relating to the Boxcars shall be separately recorded and maintained by NRUC in a form suitable for reasonable inspection by the Owner and by Orchard, or any person designated by either, from time to time during regular business hours of NRUC. NRUC shall supply the Owner and Orchard with such reports regarding the use of the Boxcars as the Owner or Orchard may reasonably request. NRUC shall provide the Owner with all information reasonably necessary for preparation of Federal income tax and other tax returns.

(d) NRUC shall perform all car accounting services for the Boxcars and send reports to the Owner and Orchard on a

quarterly basis not more than 15 days after the end of each calendar quarter itemizing all revenues received and expenses paid (i.e., on the cash basis) during such quarter.

(e) NRUC will at all times while this Agreement is in effect furnish, at its expense, combined single limit liability insurance insuring NRUC and the Owner in an amount not less than $3,000,000 for each person and $3,000,000 for each occurrence for liability arising out of bodily injury and property damage as a result of the ownership and operation of the Boxcars. NRUC shall furnish the Owner with a Certificate of Insurance confirming that the Owner is named as an additional insured under such policy and that each of the Owner's Boxcars is referred to in such policy. NRUC shall, if the Owner has so elected in Section 21 of this Agreement, seek to obtain and maintain, at the expense of the Owner, all risk casualty insurance against damages to each Boxcar in an amount not less than the original invoice price thereof, with a $500 deductible applicable on a per Boxcar basis. The cost of such casualty insurance shall be paid directly by the Owner (but NRUC shall have the right to pay the premiums on behalf of the Owner and to deduct such amounts from the Owner's "Aggregate Net Revenues" as hereinafter defined).

If at any time the general liability insurance maintained on the Boxcars shall lapse or have limits of less than $3,000,000 for whatever reason, NRUC shall immediately upon receipt of notice of the lapse of, or decrease in, such insurance coverage, give written notice to Owner and Orchard of the same. NRUC shall notify Owner and Orchard promptly with respect to any default in payment of any premium or of any other act or omission of NRUC or of any other party of which it has knowledge which might invalidate, or render unenforceable, or result in a lapse of or reduce, any insurance coverage on the Boxcars maintained pursuant to this Agreement.

(f) NRUC shall monitor, make, or cause to be made, such inspections of and maintenance and repairs to the Boxcars, including replacement of parts, as may be required to maintain the Boxcars in good operating condition (ordinary wear and tear excepted) and in compliance with all applicable rules and regulations of government and industry authorities relating to the qualification of the Boxcars for use in the Railroad Interchange System throughout the term of this Agreement. All expenses of maintenance and repairs shall be paid directly by the Owner (but NRUC shall have the right to pay such expenses on behalf of the Owner and to deduct such amounts from the Owner's Aggregate Net Revenues). However, if Owner shall, as provided in Section 21 of this Agreement, have entered into an Optional Boxcar Maintenance Agreement with NRUC (an "Optional Maintenance Agreement"), then the terms thereof with respect to expenses of maintenance and repair shall control. If such Optional Maintenance Agreement is in effect then NRUC shall pay the maintenance fees due it on behalf of Owner by deducting such fees when due from the Owner's Aggregate Net Revenues. NRUC agrees that it shall reasonably pursue all claims against third parties for damage to the Boxcars on behalf and at the expense of the Owner. However, if the Owner shall have entered into an Optional Maintenance Agreement

with NRUC, then NRUC shall bear the expense of claims against third parties for damage to the Boxcars (except for claims with respect to collision and other casualty which are at the Owner's expense in any event). The Owner agrees that, with respect to any claim or right against any third party relative to the physical condition of any Boxcar, the Owner shall, to the extent reasonably required to permit NRUC to seek recovery from such third party, assign such claim or right to NRUC. Unless NRUC is obligated to bear the cost or expense for which recovery is sought, such recovery shall be for the benefit of the Owner. NRUC may elect to require the Owner to advance reasonable costs to be incurred by NRUC on the Owner's behalf in any particular case.

(g) NRUC shall make, or cause to be made, in either case at the expense of the Owner, all alterations or modifications to the Boxcars required by government or industry regulations; provided, however, if the direct costs of such alterations or modifications shall exceed $500 per Boxcar (computed cumulatively from the date of the Certificate of Acceptance as to such Boxcar), then NRUC shall first give the Owner and Orchard prior written notice of the proposed alterations and modifications and an estimate of the cost thereof, and NRUC shall not thereafter make or cause such modifications to be made if the Owner advises NRUC in writing within fifteen days after receipt of such notice that Owner does not desire to have such alterations or modifications made. In the event Owner elects not to proceed with such required alterations or modifications, NRUC may elect to terminate this Agreement as to the Boxcars requiring such alterations or modifications upon five days' prior written notice to Owner, in which event subparagraph 14(d) regarding delivery of the Boxcars shall apply. In the event that alterations or modifications are required to correct a manufacturer's defect, then such alterations and modifications shall be at the expense of NRUC if the Optional Maintenance Agreement is in effect. Nothing in this subparagraph shall affect the rights of the Owner as against the manufacturer, if any.

(h) NRUC shall take appropriate steps to ensure that no Boxcar will be used predominantly outside the United States within the meaning of Section 48(a)(2)(A) of the Internal Revenue Code of 1954 (as amended), or any successor provisions thereof, and applicable regulations thereunder.

5. Receipt and Disbursement of Revenue.

(a) NRUC shall collect, on behalf of the Owner, all mileage charges and car hire revenues paid by railroads with respect to the use of the Boxcars. As to incentive per diem revenues, NRUC shall, from its unrestricted funds, credit to the account of the Owner an amount equal to the incentive per diem revenues received with respect to each Boxcar by the railroad whose markings appear thereon (the "IPD Equivalent") immediately after receipt of such revenues by such railroad. (Notwithstanding such credit, the railroad receiving incentive per diem revenues shall comply with Section 10 of this Agreement.) Such mileage charges and car hire revenues, including the IPD Equivalent, are referred to herein as

the "Gross Revenues". In addition to those items of expense which may be paid by NRUC for the account of Owner pursuant to this Agreement, NRUC shall, at the expense of Owner, pay the following designated expenses as may be required to be paid with respect to the Owner's Boxcars: movement and storage expenses, any sales tax which may be imposed with respect to such Gross Revenues, car hire claim relief allowed any railroad by NRUC, and adjustments or refunds of Gross Revenues payable to railroads. Such designated expenses are referred to herein as the "Designated Expenses". In the event that the Owner has elected to participate in the Revenue Pool as described in subparagraph (b) of this Section, then the Owner's Gross Revenues and Designated Expenses will be computed as therein provided. The excess of the Owner's Gross Revenues over Designated Expenses is referred to herein as the "Aggregate Net Revenues". The Owner's Aggregate Net Revenues for each calendar quarter are referred to herein as the "Owner's Quarterly Net Revenues".

(b) The Owner may elect in Section 21 of this Agreement to participate in the pooling of Gross Revenues and Designated Expenses relating to the Owner's Boxcars with the Gross Revenues and Designated Expenses relating to the boxcars of others who have acquired boxcars and entered into management agreements with NRUC pursuant to the Private Placement Memorandum referred to in the Commitment Agreement (the "Revenue Pool"). If such election has been made (and if one or more other owners has similarly elected), then such participation shall be as provided herein.

(i) Gross Revenues and Designated Expenses with respect to all boxcars the revenues of which are included in the Revenue Pool shall be allocated to (and, as apportioned, be the Gross Revenues and Designated Expenses of) each participant in the Revenue Pool.

(ii) Apportionment shall be effected with respect to each calendar quarter on the basis of the number of days in such quarter that each boxcar was included in the Revenue Pool (i.e., from the date of the Certificate of Acceptance of such boxcar to the date of withdrawal). As to each Boxcar, such apportionment rate shall be based on days of participation as a ratio of the total number of boxcar days of participation in the Revenue Pool. However, NRUC shall, pursuant to a mathematical formula approved by Orchard, adjust the apportionment rate to reflect the fact that different boxcars included in the Revenue Pool may have different rate entitlements from time to time by virtue of age and cost differences between boxcars.

(iii) Gross Revenues received in any calendar quarter shall be allocated among boxcar owners in accordance with the apportionment rate in effect with respect to the quarter in which such revenues were earned. Except to the extent NRUC determines as to any particular item of Designated Expenses to apportion such item in accordance with the apportionment rate in effect with respect to the quarter in which such expense was incurred, Designated Expenses paid in any calendar quarter shall be allocated among boxcar owners in accordance with the apportionment rate in effect with respect to the quarter in which such expenses were paid.

(iv) It is understood that only those items of income expressly included in Gross Revenues are to be pooled (i.e., excluded are insurance proceeds or other casualty damage proceeds or the proceeds from sale or other disposition of a participant's boxcars, etc.) and only those items of expense expressly included in Designated Expenses are to be pooled (i.e., excluded are collision and other casualty expenses, liability obligations for personal injury or property damage, ad valorem and similar taxes, management and maintenance fees, maintenance and repair expenses, expenses of sale or other disposition of a boxcar, principal of and interest on debt, etc.).

(v) Gross Revenues received and Designated Expenses paid after termination of a Revenue Pool or an owner's participation therein shall be allocated to, and be the revenues and expenses of, boxcar owners in accordance with subparagraphs (i) (ii) and (iii) hereof.

(vi) Participation in the Revenue Pool shall be limited to boxcars originally acquired pursuant to the Private Placement Memorandum described in the Commitment Agreement.

(vii) Withdrawal of a boxcar from the Revenue Pool shall be effected automatically upon the loss or destruction of (or damage beyond repair to) such boxcar. Further, such withdrawal shall be automatically effected upon termination of NRUC's management of such boxcar.

(viii) An owner may terminate participation in the Revenue Pool as to all boxcars owned by him effective as of the last day of any calendar quarter by written notice to NRUC and Orchard given not less than thirty (30) days prior to the close of such quarter.

(ix) No participant in the Revenue Pool shall gain, by reason of such participation, any ownership or other economic interest whatsoever in any boxcar of any other participant, it being understood and agreed that the Revenue Pool is merely a bookkeeping arrangement as to the pooling of certain designated items of income and expense for a limited period. No participant in the Revenue Pool shall have any contractual relationship with any other participant in the Revenue Pool pursuant to this Agreement, the sole contractual relationship to which the Owner is a party being that between the Owner and NRUC.

(c) NRUC shall, in addition to the rights of NRUC under Section 16 hereof, have the right, if it so determines, to make disbursements on behalf of the Owner from the Owner's Aggregate Net Revenues of the following expenses applicable with respect to the Boxcars owned by the Owner:

(i) The minimum management fee payable to NRUC as provided in subparagraph 7(c);

(ii) Costs of maintenance and repair for which the Owner is responsible hereunder;

(iii) Maintenance fees payable to NRUC pursuant to the Optional Maintenance Agreement if in effect;

(iv) Ad valorem and similar taxes; and

(v) Costs for optional casualty insurance, if elected by the Owner herein.

It is specifically understood that the management fee payable to NRUC hereunder is, except for the minimum management fee, not to be withheld by NRUC for the account of Owner. It is further understood that, as to maintenance fees payable to NRUC under the Optional Maintenance Agreement, if in effect, such fees shall be so deducted as and when due for the account of Owner.

(d) NRUC shall distribute Owner's Quarterly Net Revenues, less any expenses paid pursuant to subparagraph (c) hereof, quarterly, 15 days after the close of each calendar quarter. Such disbursement shall be to an account of the Owner designated by Orchard and shall be accompanied by a report to Owner and to Orchard in sufficient detail to permit calculation of the management fee and any other sums due NRUC at that time.

(e) In the event that Gross Revenues are insufficient to discharge any expenses (including Designated Expenses) attributable to the Boxcars, the Owner shall pay such expenses as are not covered by Gross Revenues for which Owner is responsible or promptly reimburse NRUC for payment of the same as the case may be.

6. Conflicts of Interest. Owner understands that NRUC is managing other boxcars for its own account and for the account of persons associated with NRUC and that NRUC may have conflicts of interest between the management of Owner's Boxcars and other boxcars owned, controlled or managed by NRUC. Although there can be no assurance that the Owner's Boxcars will earn revenues equal to those of other railroad equipment owned, controlled, or managed by NRUC, NRUC agrees to use reasonable efforts to integrate the Owner's Boxcars into the fleet of railroad equipment owned, controlled, or managed by NRUC and to manage the Owner's Boxcars in a manner consistent with the management by NRUC of railroad equipment for its own account and the account of affiliated persons in an effort to provide the same rate of utilization for the Owner's Boxcars that it achieves for all other boxcars which it owns, manages or leases. NRUC shall have no liability under this Section 6 except for fraud, bad faith or gross mismanagement.

7. Management Fees.

(a) Subject to subparagraph (b) of this Section 7, in consideration of all management services performed by NRUC, the Owner agrees to pay NRUC (i) 20% of Gross Revenues received in a calendar quarter up to the Gross Revenues generated by a utilization

rate of 95% or less, and (ii) 95% of Gross Revenues received in that calendar quarter generated by a utilization rate in excess of 95%. For example, if the utilization rate is 96%, then 95/96's of Gross Revenues will be subject to a management fee of 20% and 1/96 of Gross Revenues will be subject to a management fee of 95%. Such fee shall be due and payable quarterly on the date of distribution of Owner's Quarterly Net Revenues pursuant to the provisions of subparagraph 5(d) hereof; provided, however, there shall be credited to the sums otherwise due NRUC on such date amounts paid to NRUC on account thereof pursuant to subparagraph (c) hereof. The utilization rate to be applied in determining the management fee for a particular quarter shall be the utilization rate for the most recent twelve month period (or such shorter period for which this Agreement has been in effect) for which revenues have been collected. The utilization rate shall be computed as provided in subparagraph 14(b) hereof.

(b) Notwithstanding the provisions of subparagraph (a) of this Section, but subject to the provisions of subparagraph (c), payment of management fees to NRUC may be deferred by the Owner to the extent provided in this subparagraph. Such fees may be deferred by the Owner to the extent, and so long as, the sum of Owner's Quarterly Net Revenues computed on a cumulative cash basis from the date of commencement of this Agreement (the "Cumulative Boxcar Revenues"), do not exceed the sum of (i) the total amount of payments due from the Owner under an Optional Maintenance Agreement (or, if the Owner is not a party to an Optional Maintenance Agreement, the payments which would have become due if the Owner were such a party), computed on a cumulative basis from the date of commencement of this Agreement, and (ii) the sum of, for each Boxcar at any time under management hereunder, $1,025 times the number of full quarters of such management which have elapsed from the date of commencement of this Agreement to the date of the computation. Fees deferred for any quarter shall be paid to NRUC in the first subsequent quarter (and each quarter thereafter) to the extent that the Owner's Cumulative Boxcar Revenues through such quarter exceed the sum of (i) the total amount of payments due from the Owner under an Optional Maintenance Agreement (or, if the Owner is not a party to an Optional Maintenance Agreement, the payments which would have become due if the Owner were such a party), computed on a cumulative basis from the date of commencement of this Agreement, and (ii) the sum of, for each Boxcar at any time under management hereunder, $1,025 times the number of full quarters of such management which have elapsed from the date of commencement of this Agreement to the date of the computation, until the aggregate deferred fees for all prior quarters have been paid. However, management fees to NRUC (including fees theretofor deferred) may be similarly deferred with respect to any quarter except to the extent that Owner's Quarterly Net Revenues with respect to such quarter exceed the sum of (i) the total amount of payments due from the Owner under an Optional Maintenance Agreement (or, if the Owner is not a party to an Optional Maintenance Agreement, the payments which would have become due if the Owner were such a party) in such quarter, and (ii) $1,025 times the number of Boxcars under management hereunder during such quarter. In the event of termination of this Agreement, all remaining deferred unpaid management fees hereunder shall be deemed unearned.

(c) Notwithstanding the provisions of subparagraphs (a) and (b) of this Section, for the period commencing upon the effective date of this Agreement and ending on June 30, 1980, NRUC shall be entitled to a minimum management fee in the amount of 10% of Owner's Gross Revenues received on a daily basis. Such minimum management fee shall be payable by the Owner to NRUC daily, such payment to be effected by NRUC's deducting and retaining the same from Owner's Gross Revenues as received. The minimum management fee (i) shall be credited against Owner's obligation to NRUC pursuant to subparagraph (a) of this Section and (ii) shall not be subject to deferral pursuant to subparagraph (b) of this Section.

8. Express Powers Delegated to NRUC. NRUC shall have the power, in addition to the general powers set forth in Section 4:

(a) To affix to the Boxcars the railroad markings of a railroad owned or controlled by NRUC;

(b) To enter into arrangements with other railroads to grant per diem reclaim when deemed prudent to maximize revenues; and

(c) At the option and at the expense of NRUC, to affix the NRUC logotype insignia to each side of the Boxcars in standard size.

9. Assignment. (a) This Agreement is not assignable by NRUC except with the written consent of the Owner; provided, however, that this Agreement may be assigned by NRUC in connection with the merger or consolidation of NRUC into or with a corporation which is subject to the reporting requirements of the Securities Exchange Act of 1934, pursuant to Section 12(b) or 12(g) of that Act, or as part of the sale of substantially all of the assets of NRUC to such a corporation, provided that notice of such merger, consolidation, or sale shall be given to Owner prior to the effective date thereof.

(b) This Agreement is not assignable by Owner except with the consent of NRUC (except as provided in Section 16 hereof) which consent may be withheld or conditioned in its discretion. However, NRUC shall not unreasonably withhold such consent as to transfer by reason of intrafamily gifts and testamentary dispositions. NRUC's consent to any such transfer may be conditioned upon receipt by NRUC of such documents and instruments deemed appropriate by counsel for NRUC.

10. Compliance with Applicable Laws and Rules and Regulations. In connection with NRUC's management of the Boxcars, NRUC will comply, and will cause every railroad whose markings appear on the Boxcars to comply, and to the extent feasible will cause each user of the Boxcars to comply, in all respects, with all laws, rules, or administrative decisions of the jurisdictions in which operation of the Boxcars may extend, with the interchange rules of the AAR and with all rules, regulations, edicts, and/or decisions of the DOT, the ICC, the AAR and any other government or industry authority exercising any power or jurisdiction with respect to the Boxcars, to the extent that such may affect the title,

revenues, operation or use of the Boxcars in any manner whatsoever; provided, however, that NRUC may, in good faith, at its expense, contest the validity or application of any such law or rule in any reasonable manner, provided further that NRUC is reasonably of the opinion that contesting such law or rule will not adversely affect the property or rights of the Owner.

In addition to the compliance provided in the preceding paragraph, NRUC shall specifically ascertain and assure that any and every railroad whose markings may be placed on the Boxcars as a result of this Agreement shall at all times comply with all applicable provisions of Part 1036, Sub-Chapter X of Title 49 of the Code of Federal Regulations -- Incentive Per Diem Charges on Boxcars, and any successor provisions thereto.

11. Indemnification. Owner and NRUC jointly and severally acknowledge, agree and covenant that NRUC is entering into this Agreement solely as the agent of the Owner.

(a) The Owner agrees that he shall not attempt to enter into contracts or commitments in the name, or on behalf of, NRUC, or to bind NRUC in any manner or respect whatsoever except insofar as may be consistent with NRUC's status as agent under this Agreement. Further, the Owner agrees to indemnify and hold NRUC harmless from any and all claims, demands, causes of action (at law or equity), costs, damages, reasonable attorney's fees, expenses and judgments which may hereafter be asserted against or sustained by NRUC by reason of a claim of a third party against NRUC based on or relating to the Boxcars or arising out of operation or use thereof or the Owner's title thereto, except a claim which gives rise to NRUC's obligation to indemnify the Owner hereunder.

(b) NRUC agrees that it shall not attempt to enter into contracts or commitments in the name, or on behalf of, the Owner, or to bind the Owner in any manner or respect whatsoever except insofar as may be consistent with NRUC's status as agent under this Agreement. NRUC agrees to indemnify and hold harmless the Owner from and against any and all claims, demands, causes of action (at law or equity), costs, damages, reasonable attorney's fees, expenses and judgments which may hereafter be asserted against or sustained by the Owner by reason of any act or omission by NRUC (i) if a result of negligence, fraud or bad faith of NRUC, (ii) if a result of any misrepresentation or breach of any covenant or warranty made by NRUC hereunder, or (iii) if a result of any act of NRUC outside the scope of NRUC's authority granted under this Agreement.

12. Default. The occurrence of any of the following events shall be Events of Default hereunder:

(a) The nonpayment by either party within fourteen (14) days after written notice of non-payment of any sum required hereunder to be paid by such party;

(b) Any material representation or warranty of either party under this Agreement shall prove to be incorrect in any material respect;

(c) The default by either party under any other material term, covenant or condition contained in this Agreement which is not cured within fourteen (14) days after written notice thereof from the other party;

(d) Any affirmative act of insolvency by NRUC, or the filing by NRUC of any petition or action under any bankruptcy, reorganization, insolvency, or moratorium law, or the filing of any such petition or action against NRUC that is not dismissed within sixty (60) days after such filing against NRUC, or the appointment of any receiver or trustee to take possession of the properties of NRUC unless such appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of said filing or appointment;

(e) The subjecting of any of the property of NRUC to any levy, seizure, assignment, application or sale by any creditor or governmental agency which substantially impairs the capacity of NRUC to fulfill its obligations under this Agreement; and

(f) The assignment of this Agreement by either party in violation of Section 9 hereof.

13. Remedies Upon Default.

(a) Upon the occurrence of any Event of Default the non-defaulting party may (i) terminate this Agreement or (ii) proceed by appropriate court action to enforce performance of this Agreement by the defaulting party and/or (iii) sue to recover direct and consequential financial damages which result from a breach hereof, and such defaulting party shall bear the other party's costs and expenses, including reasonable attorney's fees, in securing such enforcement or financial damages.

(b) In the event of default by NRUC, the Owner may, by notice in writing to NRUC, terminate NRUC's right to possession of the Boxcars; and thereupon the Owner may demand, and thereupon be entitled to delivery of the Boxcars pursuant to subparagraph 14(d) hereof (except that the costs and expenses of assembling, delivery, storage and transportation of the Boxcars would be for the account of NRUC) and/or may, by the Owner's agents, enter upon any premises where the Boxcars may be located and take possession of them and henceforth hold, possess and enjoy the same free from any right of NRUC. NRUC hereby expressly waives any and all claims against the Owner and the Owner's agents for damages of whatever nature in connection with any retaking of any of the Boxcars in any reasonable manner.

(c) In the event of default by NRUC, the Owner may demand that an escrow account be established to receive all car hire

revenues and mileage charges, including IPD Equivalent, and any other sums accruing and payable with respect to the use of Boxcars, and NRUC shall take all necessary action to establish the escrow account and to provide for the direct payment of all such car hire revenues, mileage charges and other sums directly to the escrow account for payment to the Owner, as provided in this Agreement (subject to the payment by the escrow agent of any management and maintenance fees earned and payable to NRUC under this Agreement or under the Optional Maintenance Agreement). Such escrow account will be established at a national bank with a capital and undivided surplus of at least $25,000,000 to be chosen by Orchard and approved by NRUC (which approval shall not be unreasonably withheld).

(d) In the event of default by the Owner, NRUC, by notice in writing to the Owner, may terminate its obligations hereunder; provided, however, in exercising such right of termination NRUC shall act in a commercially reasonable manner.

(e) Each and every power and remedy herein specifically given to the Owner or NRUC shall be in addition to every other power and remedy herein specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by Owner or NRUC. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Owner or NRUC in the exercise of any such power or remedy and no extension of time for any payment due hereunder shall impair any such power or shall be construed to be a waiver of any default or an acquiesence therein. Any extension of time for payment hereunder or other indulgence duly granted by either the Owner to NRUC or NRUC to Owner shall not otherwise alter or affect the respective rights and obligations of the Owner and NRUC. The acceptance of any payment of the Owner or NRUC after it shall have become due hereunder shall not be deemed to alter or affect the respective rights and obligations of the Owner and NRUC with respect to any subsequent payments or defaults therein.

14. Termination. In addition to the termination rights provided in Section 13, this Agreement shall terminate as provided in this Section.

(a) This Agreement shall terminate with respect to any Boxcar sold (except as otherwise provided in Section 9 or 16 hereof), lost or destroyed (or damaged beyond repair).

(b) This Agreement shall terminate at the option of the Owner in the event that, for any twelve-month period for which revenues have been collected, the Owner's utilization rate is less than 82%. The utilization rate is the amount of car hire revenues earned and received (exclusive of mileage revenues) with respect to

Owner's Boxcars expressed as a percentage of the amount that could have been received if the Boxcars had earned the maximum amount of such car hire revenues for each day of such period. If such utilization rate is greater than 82%, the Owner shall nevertheless have the option to terminate this Agreement if such utilization rate is more than five percentage points less than the utilization rate applicable to all boxcars owned, managed or leased by NRUC. If the Owner is participating in a Revenue Pool, the utilization rate shall be computed on the basis of the average utilization rate of all boxcars in the Revenue Pool. NRUC agrees that it shall maintain and shall make available to the Owner and to Orchard such information in such form as shall be necessary to permit a determination of whether a right of termination exists hereunder.

(c) The Owner shall have the additional right and the option to terminate this Agreement upon payment to NRUC, as liquidated damages and not as a penalty, as to each Boxcar as to which this Agreement is to be terminated, of $50 times the number of months of the term hereof which are unexpired as of the date of termination. The sale or lease of a Boxcar during the term of this Agreement shall be deemed to result in the termination of this Agreement as to such Boxcar by the Owner entitling NRUC to liquidated damages under this subparagraph unless such sale or lease does not terminate the status of NRUC as managing agent of such Boxcar hereunder or pursuant to a successor agreement with the purchaser or lessee the terms of which are not materially adverse to NRUC.

(d) At the expiration or upon termination of this Agreement as to any Boxcar, NRUC will, at the option of the Owner, surrender possession of such Boxcar to the Owner by immediate delivery of the same to the Owner at such place as the Owner shall designate in writing to NRUC or by causing the Boxcar to be moved from point to point in the usual and customary manner to be delivered to a point designated by the Owner within a period designated by the Owner, which period shall end (and such delivery shall be made) not later than one hundred twenty (120) days following termination. NRUC shall exercise reasonable efforts to keep the Boxcars in operation and producing car-hire revenues during such period. It is expressly agreed that (except as provided in subparagraph 13(b) hereof) assembling, delivery, storage, and transporting of the Boxcars is at the expense and risk of the Owner. A Boxcar shall no longer be subject to this Agreement upon removal therefrom of the railroad markings placed thereon by NRUC which removal shall be accomplished by NRUC and at NRUC's expense immediately upon the arrival of the Boxcar at the point designated by the Owner. The placement of such other markings as may be designated by the Owner shall be accomplished by NRUC at the Owner's expense. Notwithstanding the above, if the Boxcars are on, or are delivered to, the railroad line of NRUC or its affiliates upon any expiration or termination of this Agreement, NRUC shall grant immediate access to the Owner or the Owner's agents, if requested, to remove the railroad markings from the Boxcars and

place thereon such markings as may be designated by the Owner. After the removal and replacement of markings, if so requested by Owner, NRUC shall use its best efforts to load such Boxcars with freight and deliver them to a connecting carrier for shipment. NRUC, at the expense of the Owner, will arrange for storage of the Boxcars for such period of time as shall be reasonably required by the Owner. From and after termination of this Agreement with respect to a Boxcar all revenues earned by such Boxcar through the date of its return to the point designated by the Owner shall be paid to the Owner when and as received after deducting the management fee provided in Section 7, and any costs incurred in connection with such Boxcar.

15. Representations, Warranties and Covenants. NRUC represents, warrants and covenants that:

(a) NRUC is a corporation duly organized, validly existing and in good standing under the laws of the State of South Carolina and has the corporate power and authority and is duly qualified and authorized to do business wherever necessary to carry out its present business and operations and to own or hold under lease its properties and to perform its obligations under this Agreement (and, if in effect, the Optional Maintenance Agreement).

(b) The entering into and the performance of this Agreement (and, if in effect, the Optional Maintenance Agreement) will not violate any judgment, order, law or regulation applicable to NRUC, or result in any breach of or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of NRUC or on the Boxcars pursuant to any instrument to which NRUC is a party or by which it or its assets may be bound.

(c) Except as described in the Private Placement Memorandum referred to in the Commitment Agreement, there is no action or proceeding pending or threatened against NRUC before any court or administrative agency or other governmental body which might result in any material adverse effect on the business, properties and assets, or condition, financial or otherwise, of NRUC.

(d) Except as described in the aforesaid Private Placement Memorandum, NRUC is not a party to any agreement or instrument or subject to any charter or other corporate restriction which, so far as NRUC can now reasonably foresee, will individually or in the aggregate materially adversely affect the business, condition or any material portion of the properties of NRUC or the ability of NRUC to perform its obligations under this Agreement.

(e) With respect to any Boxcars which shall bear the markings of the St. Lawrence Railroad, a division of NRUC, NRUC shall be eligible and entitled to collect per diem, incentive per diem and mileage charges on the Boxcars in the possession of other railroads. In the case of Boxcars bearing the markings of other

railroads owned or controlled by NRUC, the railroad whose markings are placed on such Boxcars shall likewise be eligible and entitled to collect per diem, incentive per diem and mileage charges on the Boxcars in the possession of other railroads.

(f) There is no procedure known to NRUC for recording, filing or depositing this Agreement, or the Certificates of Acceptance, other than pursuant to Section 20c of the Interstate Commerce Act, which is necessary or advisable to preserve or protect the title of Owner to the Boxcars.

16. Rights of Secured Party. Provided that NRUC has notice from Owner of the existence thereof, this Agreement and the rights of NRUC hereunder are and shall be subject and subordinate to the terms of any chattel mortgage or security agreement given by the Owner to any financing institution (herein the "Lender") granting a security interest in the Boxcars (any and all such agreements collectively referred to herein as the "Finance Documents"). NRUC consents to the Owner's assignment to the Lender of the Owner's rights, interests, powers and benefits under this Agreement as collateral security for the obligations of the Owner under the Finance Documents and agrees, upon receipt of written request from the Lender, to pay all revenues and other monies due to the Owner hereunder directly to the Lender at the address provided in such notice.

Upon receipt of notice from the Lender of the occurrence of any event of default under the Finance Documents (after giving effect to any express curative period), NRUC may deal with the Lender as successor in interest to the rights of the Owner under this Agreement and shall be bound only to the directions of the Lender. NRUC agrees to provide the Lender notice of the occurrence of any Event of Default by the Owner and shall treat the Lender as successor in interest to the rights of the Owner hereunder, provided the Lender shall have cured or remedied such default within thirty (30) days after receipt of such notice.

No provision of this Section 16 shall be construed to (i) impair, limit or qualify the Owner's absolute title to and ownership of the Boxcars; (ii) impair, limit, qualify or derogate from the agency, powers, duties, authority and responsibilities delegated to NRUC by the Owner under this Agreement; or (iii) impair, limit or qualify the rights, indemnities and remedies of NRUC under this Agreement, subject only to the rights of the Lender in the Boxcars.

17. No Intention to Create Partnership. Notwithstanding that NRUC is and will be managing Boxcars for the accounts of other owners under agreements which may be similar to this Agreement as regards the rights and obligations of the parties, it is understood and agreed that this Agreement binds only the parties hereto with

respect to those Boxcars referred to in the Commitment Agreement and as to which NRUC has executed Certificates of Acceptance pursuant to this Agreement. NRUC will not act or purport to act for or in the name of the owners of boxcars who may have entered similar agreements collectively or as an entity, it being expressly understood that any actions taken on behalf of such owners will be taken as agent for such owners, severally and individually. The parties hereto expressly agree that this Agreement is not intended to create a partnership, joint venture or other entity between Owner, other owners of boxcars who may have entered similar agreements, and/or NRUC.

18. Accounts Receivable. NRUC agrees that it shall at all times follow normal, reasonable and prudent collection procedures in the collection of accounts receivable arising from car-hire revenues, mileage charges and other sums accruing from the operation and use of the Boxcars. Such procedures will provide the same monitoring and collection efforts which NRUC expends on accounts receivable arising with respect to other boxcars owned and managed by NRUC, and NRUC shall provide the same efforts and procedures used by NRUC with respect to other boxcars owned and managed by it to monitor and settle any claims by railroads operating the Boxcars for credits or repayments with respect to any such car hire revenues, mileage charges and other sums. NRUC shall within 30 days after the end of each calendar quarter provide to Owner and to Orchard an aging of the accounts receivable arising with respect to the Boxcars (or, if Owner is a participant therein, the Revenue Pool).

19. NRUC Exclusive Agent for Sale of Boxcars.

(a) NRUC is hereby designated the exclusive agent for the Owner for the sale or lease of any Boxcar during the period commencing on the date of the Certificate of Acceptance of such Boxcar and ending five years and eleven months thereafter. However, NRUC shall not have such exclusive agency rights in the event that (i) this Agreement is terminated as a result of an Event of Default by NRUC hereunder or (ii) this Agreement is terminated by the Owner pursuant to the provisions of subparagraph 14(b) hereof. Such exclusive agency rights shall terminate five (5) months after (i) any termination of this Agreement by Owner under subparagraph 14(c) hereof or (ii) any termination of this Agreement by NRUC under subparagraph 4(g) hereof.

(b) Upon receipt of directions from Owner to dispose of one or more of the Boxcars, NRUC shall endeavor to find a buyer or lessee for the same. In the event that NRUC has effected a sale at the direction of Owner, or in the event NRUC has exclusive agency rights as to such transaction, NRUC shall be entitled to a commission of 30% of the net of (i) the amount of cash and/or notes

received in respect of such sale less (ii) an amount determined pursuant to Exhibit "B" to this Agreement (the "Differential Amount"), regardless of whether NRUC, another agent or the Owner himself secures the buyer. In the event of a lease under such circumstances, commissions shall be paid NRUC with respect to each rental payment due, reduced by an amount which bears the same ratio to total commission otherwise due as the Differential Amount bears to the aggregate rentals due under the lease. No commission shall be due in the event of a transfer of the Boxcars pursuant to the organization or reorganization of a corporation or partnership or on any transfer of any Boxcars by reason of the death of an Owner or by reason of a transfer of Boxcars by the Owner to a relative or to a charitable organization. In the event a sale or lease of the Boxcars results in a termination of this Agreement (whether or not a commission is payable), then, unless Owner has termination rights at the time of sale or lease in accordance with the other terms and conditions of this Agreement, NRUC shall also be entitled to liquidated damages (computed as provided in subparagraph 14(c) hereof) by reason of such termination by Owner. No commission shall be payable (i) with respect to a sale or lease which does not terminate the status of NRUC as managing agent of the Boxcars hereunder or pursuant to a successor agreement with the purchaser or lessee the terms of which are not materially adverse to NRUC or (ii) in a case where NRUC does not actually secure the buyer or lessee unless the applicable Boxcar is placed in service by the purchaser or lessee during the period of NRUC's exclusive agency rights under this Section.

20. Miscellaneous.

(a) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. No permitted assignment hereof shall relieve the assignor from any obligations hereunder, whether arising before or after the date of such assignment.

(b) Each party hereto shall promptly and duly execute and deliver to the other party such further documents, assurances, releases and other instruments, and take such further actions, including any necessary filings and the execution of a power of attorney of Owner, as the other party may reasonably request, in order to more fully carry out the intent and purpose of this Agreement, and to confirm the Owner's ownership of the Boxcars during the continuance of and upon termination of this Agreement.

(c) It is understood that upon the termination of NRUC's management as to any or all of the Boxcars, Owner shall no longer be entitled to use the ORER and UMLER Car Initials and Numbers and other designations (the "Designations") that are presently the property of NRUC. Owner hereby authorizes NRUC, and NRUC shall be required as provided in subparagraph 14(d), upon such termination at NRUC's expense to take all steps necessary to

promptly change the Designations on the Boxcars no longer included under this Agreement, and Owner agrees to execute any and all documents requested by NRUC to transfer to NRUC any rights Owner may have acquired to such Designations, if any. NRUC agrees to prepare, at NRUC's expense, such documentation, which in its opinion, is necessary to change all Designations on the Boxcars.

(d) Any notice required or permitted to be given by one party to another hereunder shall be properly given when made in writing, deposited in the United States mail, registered or certified, postage prepaid, addressed to:

Owner:

at the address set forth in the Commitment Agreement

Orchard Capital Management, Inc. at:

7 East Redwood Street
Baltimore, Maryland 21203

National Railway Utilization Corporation at:

1100 Center Square East
1500 Market Street
Philadelphia, Pennsylvania 19102

or to such other address as may be designated in a notice given in accordance herewith.

(e) This Agreement (and the Optional Maintenance Agreement, if in effect) contains the entire agreement of the parties hereto pertaining to the management and operation of the Boxcars. Except as otherwise provided herein, this Agreement may not be modified or amended, except by express, written agreement signed by both parties hereto. No waiver of any obligation of either party hereto shall be construed as a continuing waiver of any such obligation under any provision hereof.

f) This Agreement shall be governed by and construed according to the laws of the State of South Carolina.

21. Elections by Owner. The Owner has made the determinations set forth in this Section and as evidenced herein:

(a) Casualty Insurance. Pursuant to subparagraph 4(e) of this Agreement, the Owner hereby, by initialling in the appropriate block,

/EQC/ does / / does not

direct NRUC to seek to obtain and maintain, at the expense of Owner, all risk casualty insurance against damages to each Boxcar in an amount not less than 100% of the invoice price thereof, with a $500 deductible applicable on a per Boxcar basis. Owner understands that the availability of such insurance is not assured.

(b) Revenue Pool. Pursuant to subparagraph 5(b) of this Agreement, the Owner hereby, by initialling in the appropriate block,

/____/ does /EGC/ does not

elect to participate in the Revenue Pool as described therein. Owner understands that neither the formation nor continuation of such Revenue Pool is assured.

(c) Optional Maintenance Agreement. Pursuant to subparagraph 4(f) of this Agreement, the Owner hereby, by initialling in the appropriate block,

/EGC/ does /____/ does not

elect to enter into an Optional Maintenance Agreement with NRUC. In the event that Owner has elected to enter into an Optional Maintenance Agreement, Owner has submitted counterparts thereof, executed by the Owner, to NRUC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ATTEST:

[Corporate Seal]

F. W. Strzepek

Title: Ass't. Secretary

NATIONAL RAILWAY UTILIZATION CORPORATION

By: [signature]

Title: Vice President

WITNESS:

Martin Ogunts

x Edith G. Carter
Owner

STATE OF NEW YORK)
)ss:
COUNTY OF NASSAU)

On this 29th day of January, 1979, before me personally appeared Edith G. Carter, to me personally known and known to me to be the person described in the foregoing instrument, who, being by me duly sworn, says, that said instrument was signed and sealed by ~~him~~ her and ~~he~~ she acknowledges that the execution of the foregoing instrument was ~~his~~ her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal.

My Commission expires:
MARTIN OGINTZ
NOTARY PUBLIC, State of New York
No. 30-2945780
Qualified in Nassau County
Commission Expires March 30, 1979

Martin Ogintz
Notary Public

STATE OF Pa.)
)ss:
County OF Phila.)

On this 28th day of December, 1978, before me personally appeared Charles P. Burnburke, to me personally known, who, being by me duly sworn, says that he is the Vice President of NATIONAL RAILWAY UTILIZATION CORPORATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal.

My Commission expires:
DARLENE MARQUETTE
Notary Public, Phila., Phila. Co.
My Commission Expires Sept. 13, 1982

Darlene Marquette
Notary Public

EXHIBIT A
TO
MANAGEMENT AGREEMENT

CERTIFICATE OF ACCEPTANCE

To: [Name & Address of Owner]

The undersigned, being a duly authorized inspector for National Railway Utilization Corporation ("NRUC") as managing agent under a Management Agreement (the "Management Agreement") between the adressee and NRUC dated as of _____, 19__, hereby certifies that he has made an inspection of _____[Number]_____ boxcars bearing numbers and marks as follows (the "Boxcars"):

Such Boxcars are 70 ton 50'6", rigid underframe, single sheath class XM boxcars and the above numbers and marks have been registered by NRUC (or a railroad controlled by NRUC) with the Association of American Railroads.

The undersigned has fully and finally accepted such Boxcars on behalf of the addressee as Owner and NRUC as managing agent, and has found that each of such Boxcars is plainly marked in stencil on both sides with the words:

"Ownership subject to documents filed pursuant to Section 20c of the Interstate Commerce Act."

in readily visible letters not less than one inch (1") in height; and that each of such Boxcars conforms to and fully complies with the terms of the Management Agreement and is in condition satisfactory to NRUC. Immediately upon execution hereof by NRUC, the Boxcars shall be managed by NRUC, as Managing Agent for Owner, pursuant to the Management Agreement.

The undersigned further represents and warrants on behalf of NRUC that:

1. The Boxcars have been manufactured in accordance with specifications approved by NRUC and meet all standards required of boxcars of similar class by the Interstate Commerce Commission, the Department of Transportation and the Association of American Railroads.

2. The Boxcars bear the markings of a railroad owned or controlled by NRUC being the _____[name of railroad]_____.

3. The Boxcars will be first placed in service (within the meaning of Treasury Regulation 1.167(a)-11(e)(1)) on the date hereof immediately after acceptance thereof.

4. The original use of the Boxcars (within the meaning of Treasury Regulation 1.167(c)-1(a)(2)) shall commence with the addressee after acceptance thereof.

5. The Boxcars have been lettered with proper railroad markings and the name and/or other insignia used by such railroad.

6. The Boxcars are new property (as that term is used in Treasury Regulation 1.48-2(a)).

NATIONAL RAILWAY UTILIZATION CORPORATION

By:_____

Date:_____

The foregoing Certificate of Acceptance is hereby confirmed and acknowledged as the act and deed of National Railway Utilization Corporation as of the date thereof.

ATTEST:

[Corporate Seal]

_____

Title:_____

NATIONAL RAILWAY UTILIZATION CORPORATION

By:_____

Title:_____

Date:_____

STATE OF)
)ss:
OF)

On this day of , 1978, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is the President of NATIONAL RAILWAY UTILIZATION CORPORATION, that the seal affixed to

the foregoing instrument is the corporate seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal.

My Commission expires:

_____

_____
Notary Public

EXHIBIT B
TO
MANAGEMENT AGREEMENT

"Differential Amount" is the total of: (i) $9,950 and (ii) the dollar amount set forth below opposite the number of months elapsed following the date of the Certificate of Acceptance of the applicable Boxcar:

Months Elapsed		Dollar Amount
More Than	Up To	
0	3	$28,850
3	6	28,545
6	9	28,230
9	12	27,905
12	15	27,575
15	18	27,235
18	21	26,885
21	24	26,525
24	27	26,160
27	30	25,780
30	33	25,395
33	36	24,995
36	39	24,590
39	42	24,170
42	45	23,740
45	48	23,300
48	51	22,840
51	54	22,380
54	57	21,905
57	60	21,415
60	63	20,915
63	66	20,400
66	71	19,870

In the event that the initial acquisition cost of a Boxcar exceeds $39,800, the Differential Amount as to such Boxcar, computed as above, shall be increased proportionately.