
EQUIPMENT LEASE

Dated as of March 15, 1974

7471

RECORDATION NO. _____ Filed & Recorded

APR 12 1974 - 1 50 PM

BETWEEN

INTERSTATE COMMERCE COMMISSION

THE FIRST NATIONAL BANK OF CHICAGO,
Trustee under AMAX Trust No. 1

LESSOR

AND

AMERICAN METAL CLIMAX, INC.
(AMAX Coal Company Division)

LESSEE

(AMAX Trust No. 1)

TABLE OF CONTENTS

<u>Section</u>	<u>Heading</u>	<u>Page</u>
	Parties.....	1
	Recitals.....	1
1.	LEASE AND DELIVERY OF EQUIPMENT.....	1
1.1.	Lease of Equipment.....	1
1.2.	Inspection and Acceptance.....	2
1.3.	Certificates of Acceptance.....	2
2.	RENTALS AND PAYMENT DATES.....	2
2.1.	Rentals for Equipment.....	2
2.2.	Rental Payment Dates.....	2
2.3.	Place of Payment.....	3
2.4.	Net Lease.....	3
3.	TERM OF THE LEASE.....	3
4.	TITLE TO THE EQUIPMENT.....	3
4.1.	Retention of Title.....	3
4.2.	Duty to Number and Mark Equipment.....	4
4.3.	Prohibition Against Certain Designations.....	4
5.	DISCLAIMER OF WARRANTIES.....	4
6.	LESSEE'S INDEMNITY.....	5
6.1.	Scope of Indemnity.....	5
6.2.	Continuation of Indemnities and Assumptions....	5

<u>Section</u>	<u>Heading</u>	<u>Page</u>
7.	RULES, LAWS AND REGULATIONS.....	6
8.	USE AND MAINTENANCE OF EQUIPMENT.....	6
9.	LIENS ON THE EQUIPMENT.....	6
10.	FILING, PAYMENT OF FEES AND TAXES.....	7
	10.1. Filing.....	7
	10.2. Payment of Taxes.....	7
11.	INSURANCE, PAYMENT FOR CASUALTY OCCURRENCE OR EQUIPMENT UNSERVICEABLE FOR USE.....	8
	11.1. Insurance.....	8
	11.2. Duty of Lessee to Notify Lessor.....	8
	11.3. Payment for Casualty Occurrence.....	8
	11.4. Unserviceable Equipment.....	9
	11.5. Rent Termination.....	9
	11.6. Disposition of Equipment.....	10
	11.7. Casualty Value.....	10
	11.8. Termination Value.....	10
	11.9. Risk of Loss.....	10
	11.10 Eminent Domain.....	11
12.	ANNUAL REPORTS.....	11
	12.1. Duty of Lessee to Furnish.....	11
	12.2. Lessor's Inspection Rights.....	11
13.	RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.....	11
14.	DEFAULT.....	12
	14.1. Events of Default.....	12
	14.2. Remedies.....	13
	14.3. Cumulative Remedies.....	16
	14.4. Lessor's Failure to Exercise Rights.....	16
	14.5. Default Subject to Any Assignment or Security Agreement.....	16

<u>Section</u>	<u>Heading</u>	<u>Page</u>
15.	RETURN OF EQUIPMENT UPON DEFAULT.....	16
15.1.	Lessee's Duty to Return.....	16
15.2.	Specific Performance.....	17
15.3.	Lessor Appointed Lessee's Agent.....	17
16.	ASSIGNMENTS BY LESSOR.....	17
16.1.	Permitted Assignments.....	17
16.2.	Rights of Assignee for Collateral Purposes.....	18
16.3.	Security Interest Subject to Lease.....	18
17.	ASSIGNMENTS BY LESSEE: USE AND POSSESSION.....	18
17.1.	Lessee's Rights to the Equipment.....	18
17.2.	Use and Possession by Lessee, Interchange, "Mileage".....	19
18.	OPINION OF LESSEE'S COUNSEL.....	20
19.	INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.....	21
20.	OPTIONS TO PURCHASE AND RENEW.....	21
20.1.	Option to Purchase.....	21
20.2.	Option to Renew.....	22
21.	INDEMNITY IN RESPECT OF TAX MATTERS.....	23
22.	MISCELLANEOUS.....	25
22.1.	Notices.....	25
22.2.	Execution in Counterparts.....	26
22.3.	Law Governing.....	26
22.4.	Limitations of Liability.....	26

<u>Section</u>	<u>Heading</u>	<u>Page</u>
Signature Page.....		27
Acknowledgments.....		28

SCHEDULES AND EXHIBITS TO EQUIPMENT LEASE

- Schedule A-1 - Description of Equipment
- Schedule A-2 - Description of Equipment
- Schedule A-3 - Description of Equipment
- Schedule B - Schedule of Casualty Value
- Schedule C - Schedule of Termination Value
- Exhibit 1 - Certificate of Acceptance

EQUIPMENT LEASE

EQUIPMENT LEASE dated as of March 15, 1974, between THE FIRST NATIONAL BANK OF CHICAGO, not individually but solely as Trustee (the "Lessor") under a Trust Agreement dated as of March 15, 1974 (the "Trust Agreement") with Circle Equity Leasing Corp., as Trustor (the "Trustor") and AMERICAN METAL CLIMAX, INC. (AMAX Coal Company Division), a New York corporation (the "Lessee").

RECITALS:

A. The Lessee has heretofore entered into contractual arrangements for the purchase of certain railroad rolling stock (collectively the "Equipment" and individually an "Item of Equipment") described in Schedules A-1, A-2 and A-3 attached hereto and made a part hereof from the Manufacturers thereof identified in said Schedules (the "Manufacturers").

B. The Lessee desires to lease rather than own the Equipment at the rentals and upon the terms and conditions herein-after provided.

C. The Lessor and the Lessee have entered into an Acquisition Agreement dated as of March 15, 1974 (the "Acquisition Agreement") providing for the acquisition by the Lessor from the Manufacturers of the Equipment and the lease thereof to the Lessee subject to the delivery of the Equipment by the Manufacturers and acceptance thereof by the Lessee under this Lease and the completion of arrangements by the Lessor for the financing of the acquisition of the Equipment.

THE LESSEE AND THE LESSOR HEREBY AGREE AS FOLLOWS:

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Lease of Equipment. Upon the delivery to and acquisition by the Lessor of any Item of Equipment from the Manufacturer thereof as provided in the Acquisition Agreement, the Lessor agrees to lease and let such Item of Equipment to the Lessee and the Lessee agrees to hire such Item of Equipment from the Lessor for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. Upon tender of delivery of each Item of Equipment by the Manufacturer thereof the Lessee will inspect such Item of Equipment and if such Item of Equipment tendered for delivery appears to meet the specifications, the Lessee will accept delivery thereof and execute and deliver to such Manufacturer and the Lessor Certificates of Acceptance, substantially in the form of Exhibit 1 attached hereto and made a part hereof.

1.3. Certificates of Acceptance. The Lessee's execution and delivery to the Lessor of Certificates of Acceptance with respect to each Item of Equipment shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's rights, if any, against the Manufacturers, each Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that each Item of Equipment is in good order and condition and appears to conform to the specifications applicable thereto and all applicable United States Department of Transportation and the Interstate Commerce Commission requirements and specifications, if any. The Lessee represents that it has no knowledge of any such defect as of the date of such acceptance.

SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rentals for Equipment. The Lessee agrees to pay the Lessor the following rental for each Item of Equipment leased hereunder:

(a) Interim Rental. For each Item of Equipment an amount per day equal to (i) the Invoice Cost of such Item multiplied by (ii) a fraction, the numerator of which is 115% of the corporate base rate of interest charged by The First National Bank of Chicago from time to time to its largest and most credit-worthy commercial customers on 90-day commercial loans, and the denominator of which is 365 (any change in such fraction resulting from a change in such corporate base rate to take effect as of and with such change) multiplied by (iii) the number of days from the Closing Date in respect of such Item (as defined in Section 4 of the Acquisition Agreement) to the Fixed Rental Commencement Date provided for in Section 2.2 hereof; and

(b) Fixed Rental. For each Item of Equipment sixty (60) quarterly installments of Fixed Rental payable in arrears, each in an amount equal to 2.4037% of the Invoice Cost of such Item.

2.2. Rental Payment Dates. All Interim Rental for each Item of Equipment shall be due and payable on the earlier of the final Closing Date under the Acquisition Agreement or May 31, 1974 (the "Fixed Rental Commencement Date"). The installments of Fixed Rental for each Item of Equipment shall be due and payable quarterly in arrears from and after the Fixed Rental Commencement Date.

2.3. Place of Payment. All payments provided for in this Lease to be made to the Lessor shall be made to the Lessor at One First National Plaza, Chicago, Illinois 60670, or at such other place as the Lessor or its assigns shall specify in writing. Payment of any additional amounts required by Section 6 or Section 10.2 hereof shall be made at said place only to the extent that such payments are not being made or have not been made by the Lessee directly and are instead being paid to the Lessor by way of reimbursement or to provide the Lessor with the funds necessary to make such payments.

2.4. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any Manufacturer; nor except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of the Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment is surrendered and placed in storage.

SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Section 1 hereof, shall terminate, subject to Section 20 hereof, fifteen (15) years after the Fixed Rental Commencement Date provided for in Section 2.2 hereof, but in no event prior to the payment of all sums due and payable hereunder.

SECTION 4. TITLE TO THE EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and does hereby retain full legal title to the Equipment, and it is understood that the Lessee shall acquire

no right, title or interest to the Equipment except hereunder notwithstanding the delivery of the Equipment to and the possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its road or car number as set forth in Schedules A-1, A-2 and A-3 and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"Leased by THE FIRST NATIONAL BANK OF CHICAGO,
Owner-Trustee, CIRCLE EQUITY LEASING CORP.,
Trustor, and subject to a Security Agreement
recorded with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road or car number of any Item of Equipment except with the consent of the Lessor and in accordance with a statement of new road or car numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type for convenience of identification without abridging the right of the Lessee to use the Equipment under this Lease.

SECTION 5. DISCLAIMER OF WARRANTIES.

AS BETWEEN THE LESSOR AND THE LESSEE, THE LESSOR LEASES THE EQUIPMENT, AS-IS WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS OR MERCHANTABILITY OF ANY

ITEM OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, OR (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer thereof.

SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor, the Trustor and their respective servants, agents, successors and assigns from and against:

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

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

6.2. Continuation of Indemnities and Assumptions. The indemnities and assumptions of liability in this Section 6 shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumption of liability shall not apply in respect of any matters referred to in subsection (a) or clause (i) or (ii) of subsection (b) of Section 6.1 hereof, occurring after the termination of this Lease, except for any such

matters occurring after the termination arising in connection with the Lessee's assembling, delivering, storing or transporting of the Equipment as provided in Section 13 or 15 as the case may be. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of such claim or liability.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including the rules of the United States Department of Transportation) with respect to the use, maintenance and operation of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be installed on such Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Lessee shall not modify any Item of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this Section 9 shall survive termination of the Lease.

SECTION 10. FILING, PAYMENT OF FEES AND TAXES.

10.1. Filing. Prior to the delivery and acceptance of the first Item of Equipment, the Lessee will, at its sole expense cause this Lease and any security agreement executed by the Lessor in respect of the Equipment or this Lease to be duly filed, recorded or deposited in conformity with Section 20c of the Interstate Commerce Act and in such other places within or without the United States as the Lessor may reasonably request for the protection of its title or the security interest under any such security agreement and will furnish the Lessor proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, re-register or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or the secured party's security interest under any such security agreement in, the Equipment to the satisfaction of the Lessor or the secured party's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and re-recording or depositing or re-depositing of any such instruments or incident to the taking of such action.

10.2. Payment of Taxes. The Lessee, or the Lessor at the Lessee's expense, shall report, pay and discharge when due all license and registration fees, assessments, sales, use and proper taxes, gross receipts taxes arising out of receipts from use or operation of the Equipment, and other taxes, fees and governmental charges similar or dissimilar to the foregoing (excluding any tax measured by the Lessor's net income and any gross receipts or gross income taxes in substitution for or by way of relief from the payment of taxes measured by such net income, provided that the Lessee agrees to pay that portion of any such tax on or measured rentals payable hereunder or the net income therefrom which is in direct substitution for, or which relieves the Lessee from, a tax which the Lessee would otherwise be obligated to pay under the terms of this Section), together with any penalties or interest thereon, imposed by any state, Federal or local government upon an Item of Equipment and whether or not the same shall be assessed against or in the name of the Lessor or the Lessee; provided, however, that the Lessee shall not be required to pay or discharge any such tax or assessment (i) so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the ti

and interest of the Lessor to the Equipment; however, the Lessee shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge, or (ii) as to assessments against or in the name of anyone other than the Lessee, until 20 days after written notice thereof shall have been given to the Lessee.

SECTION 11. INSURANCE, PAYMENT FOR CASUALTY OCCURRENCE OR EQUIPMENT UNSERVICEABLE FOR USE.

11.1. Insurance. The Lessee will at all times after delivery and acceptance of each Item of Equipment hereunder, at its own expense, keep or cause to be kept each such Item insured by a reputable insurance company or companies against risks customarily insured against by the Lessee on similar equipment owned or leased by the Lessee. Such insurance may provide that losses shall be adjusted with the Lessee and shall provide that the proceeds there shall be payable to the Lessor and the Lessee as their interests shall appear; provided, however, that in the event the Lessor has executed a security agreement in respect of such Items of Equipment and the Lessee shall have received notice thereof, the Lessee shall cause the insurance on such Items of Equipment to provide that the losses, if any, shall be payable to the secured party under such security agreement pursuant to a standard mortgage loss payable clause satisfactory to such secured party. All proceeds of insurance received by the Lessor or such secured party with respect to any Items of Equipment not suffering a Casualty Occurrence (as hereinafter defined) shall be paid to the Lessee upon proof satisfactory to the Lessor and such secured party that any damage to any Item with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by the Lessor and such secured party with respect to a Casualty Occurrence shall be credited toward the payment required by this Section 11 with respect to such Casualty Occurrence.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease (any such occurrence, except for any requisition which by its term does not exceed the term of this Lease, being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor in regard thereto.

11.3. Payment for Casualty Occurrence. When the aggregate Casualty Value (as herein defined) of Items of Equipment having suffered a Casualty Occurrence (exclusive of Items of Equipment

having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Lessor pursuant to this Section 11) shall exceed \$50,000, the Lessee, on the next succeeding rental payment date, shall pay to the Lessor the rental installment due on such rental payment date for such Items of Equipment plus a sum equal to the Casualty Value of such Item or Items of Equipment as of the date of such payment; provided that notwithstanding the foregoing the Lessee shall on the last rental payment date of each calendar year pay to the Lessor a sum equal to the Casualty Value of any Item or Items of Equipment which have suffered a Casualty Occurrence during such calendar year or any prior year for which a payment has previously been made to the Lessor pursuant to this Section 11.3.

11.4. Unserviceable Equipment. Unless terminated pursuant to Section 11.3 hereof, this Lease shall remain in full force and effect with respect to all Items of Equipment throughout the term of this Lease set forth in Section 3 hereof; provided, however, the Lessee may upon not less than 30 days prior written notice to the Lessor terminate this Lease as of the 28th Fixed Rental Payment Date or as of any succeeding Fixed Rental Payment Date up to but not after the 59th Fixed Rental Payment Date as to any Item which, in the good faith judgment of the Lessee as determined by its Board of Directors, shall have become obsolete or economically unserviceable so as to be no longer useful in the conduct of the Lessee's business upon payment to the Lessor of any amount equal to the Termination Value of such Item as of the date of such payment. Such written notice shall identify the Item for which this Lease is to be terminated and shall designate the date on which termination is intended to become effective through such payment. Such notice shall also be accompanied by a certified copy of the resolutions of the Board of Directors setting forth the above referred to determination and a written statement of the President, any Vice President or the Treasurer of the Lessee to the Lessor setting forth a summary of the basis for such determination. For the purposes of this Section 11.4, interest rates payable by the Lessee for its indebtedness for borrowed money or finance charges payable by the Lessee in connection with the acquisition of its equipment under conditional sales contracts, leases or other arrangements for deferred payment shall be disregarded in the determination of economic unserviceability.

11.5. Rent Termination. Upon (and not until) payment of the Casualty Value or, as the case may be, Termination Value in respect of any Item or Items of Equipment and the Fixed Rental installment due on such payment date, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value or, as the case may be, Termination Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.6. Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment for which settlement has been made pursuant to Section 11.3 or 11 as promptly as possible for the highest price obtainable. Any such disposition shall be on an "as is", "where is" basis without representation or warranty express or implied. As to each separate Item of Equipment so disposed of the Lessee shall be entitled to receive and retain all proceeds of the disposition (including in the case of a Casualty Occurrence, any insurance proceeds and damages received by the Lessee or the Lessor) up to the sum of (i) the out-of-pocket expenses (including legal costs and attorneys' fees) incurred by the Lessee in connection with such disposition, and (ii) the Casualty Value or, as the case may be, the Termination Value thereof, and shall remit the excess, if any, to the Lessor. In disposing of such Item or Items of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item or Items of Equipment. Neither the Lessee nor any person, firm or corporation controlled by, in the control of or under common control with the Lessee shall be permitted to purchase any Item of Equipment with respect to which the Lease has been terminated pursuant to Section 11.4. It is understood and agreed that the Lessor shall be liable to the Lessee for any costs or expenses incurred by the Lessee in connection with the disposition of any Item of Equipment.

11.7. Casualty Value. The "Casualty Value" of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the original cost to the Lessor of such Item of Equipment set forth in the Schedule of Casualty Value attached hereto as Schedule B opposite such date of payment.

11.8. Termination Value. The "Termination Value" of each Item of Equipment shall be the amount determined as of the date the Termination Value is paid as provided in Section 11.4 hereof equal to that percentage of the original cost to the Lessor of such Item of Equipment as set forth in the Schedule of Termination Value attached hereto as Schedule C.

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

11.10. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the rent paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before May 1 in each year, commencing with the year 1975, the Lessee will furnish to the Lessor, the Trustor and the Lessor's assigns an accurate statement, as of the preceding December 31 (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor, the Trustor and the secured party under any security agreement executed by the Lessor each shall have the right, at its sole cost and expense by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or the Trustor or such secured party the existence and proper maintenance thereof during the continuance of this Lease.

SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks within 25 miles of Chicago, Illinois, as the Lessor may designate.

or in the absence of such designation, as the Lessee may select. The Lessee will provide storage for such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90-day period to any connecting carrier for shipment, all as directed by the Lessor upon not less than 30 day written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment.

SECTION 14. DEFAULT.

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

(a) Default shall be made in the payment of any installment of Interim Rental or Fixed Rental or of any Casualty Value or Termination Value and such default shall continue for five days; or

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

(c) Any representation or warranty made by the Lessee herein or in any statement or certificate furnished to the Lessor or any assignee or secured party referred to in Section 16 hereof, proves untrue in any material respect as of the date of issuance or making thereof and shall not be made good within 30 days after notice thereof to the Lessee by the Lessor; or

(d) The Lessee becomes insolvent or bankrupt or admits in writing its inability to pay its debts as they may mature or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a trustee or receiver for the Lessee or for the major part of its property, or the Lessee shall make any voluntary assignment or transfer of the Lessee's interest as the Lessee hereunder in a manner or to a person not permitted by the terms hereof or

(e) A trustee or receiver is appointed for the Lessee, or for the major part of its property and is not discharged within 30 days after such appointment; or

(f) Bankruptcy, reorganization, arrangements, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted by or against the Lessee, and if instituted against the Lessee are allowed against the Lessee or are consented to or are not dismissed within 60 days after such institution.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever, but the Lessor, shall, nevertheless, have a right to recover from the Lessee any and all amounts which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by a fraction of which the numerator is such accrued number of days in such full rental period and the denominator is the total number of days in such full rental period) and also to recover forthwith from

the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Item of Equipment, which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then fair rental value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period, such present worth to be computed in each case on a basis of a 5.15% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages and expenses including reasonable attorney's fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease, other than for the payment of rental; and

(c) In the event of any such termination and whether or not the Lessor shall have exercised or shall thereafter exercise any of its other rights under paragraph (b) above, the Lessor shall have the right to recover from the Lessee (i) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, shall be equal to any portion of the full 7% investment credit (hereinafter called the "Investment Credit"), allowed by Section 38 and related sections of the Internal Revenue Code of 1954, as amended (hereinafter called the "Code"), which was lost, not claimed, not available for claim, disallowed or recaptured in respect of an Item of Equipment, by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in Section 21 hereof or any other provision of the Lease, the termination of this Lease, the Lessor's loss of the right to use such Item of Equipment, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in any Item of Equipment after the occurrence of an Event of Default, and (ii) an amount which after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been

entitled to utilization of all or such portion of the maximum depreciation deduction authorized with respect to an Item of Equipment under Section 167(b) of the Code utilizing the "lower limit" of the "asset depreciation range" of 12 years for each Item of Equipment prescribed in accordance with Section 167(m) of said Code and the Regulations promulgated thereunder, for an asset described in Asset Guideline Class No. 00.25 as described in Revenue Procedure 72-10, 1972 IRB 8 (hereinafter called the "Depreciation Deduction"), which was lost, not claimed, not available for claim, disallowed or recaptured in respect of an Item of Equipment as a result of a breach of one or more of the representations, warranties and covenants made by the Lessor in Section 21 or any other provision of this Lease, the termination of this Lease, the Lessor's loss of the right to use such Item of Equipment, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Item of Equipment after the occurrence of an Event of Default, and (iii) the deductions in each taxable year of the Lessor for all interest accrued during such year on the Notes (as defined in the Loan Agreements referred to in the Trust Agreement) computed in accordance with Section 163 of the Code (hereinafter called the "Interest Deduction") which was lost, not claimed, not available for claim, disallowed or recaptured in respect of an Item of Equipment as a result of a breach of one or more of the representation, warranties and covenants made by the Lessor in Section 21 or any other provision of this Lease, the termination of this Lease, the Lessor's loss of the right to use such Item of Equipment, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Item of Equipment after the occurrence of an Event of Default.

Anything in this Section 14.2 to the contrary notwithstanding, any default in the observance or performance of any covenant, condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the above-mentioned deductions, credits or other benefits, shall be, for all purposes of this Lease, deemed to be cured if the Lessee shall, on or before the next Fixed Rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of such deductions, credits or other benefits in respect of such Item of Equipment agree to pay to the Lessor the revised rental rate in respect of such Items of Equipment determined as provided in Section 21(b) of this Lease.

14.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rent payments due hereunder and agrees to make the rent payments regardless of any offset or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

14.4. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon an occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

14.5. Default Subject to Any Assignment or Security Agreement. If and so long as this Lease shall be deemed to be a divisible and severable contract between the Lessor and the Lessee as a result of separate assignments or security agreements by the Lessor pursuant to Section 16 hereof, an Event of Default which occurs and is continuing beyond the applicable period of grace, in any, in respect of Items of Equipment or rights hereunder which are subject to any such separate assignment or security agreement shall constitute an Event of Default in respect of all Equipment and rights hereunder which are subject to all such assignments and security agreements.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee Duty to Return. If the Lessor shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost expense and risk (except as hereinafter stated):

(a) Forthwith assemble and place such Equipment upon such storage tracks within 25 miles of Chicago, Illinois, as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(b) Provide storage at the risk of the Lessee for such Equipment on such tracks for a period not exceeding 180 days after written notice to the Lessor specifying the place of storage and the car numbers of the Items so stored; and

(c) Transport any Items of Equipment, at any time within such 180 days' period, to any place on the lines of a railroad within a 25-mile radius of such storage tracks, all as the Lessor may reasonably direct upon not less than 30 days' written notice to the Lessee.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

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

SECTION 16. ASSIGNMENTS BY LESSOR.

16.1. Permitted Assignments. The Lessor may at any time and from time to time, assign the rents and other sums at any time due and to become due or at any time owing or payable, by the Lessee to the Lessor under any of the provisions of this Lease. Any such assignment shall be in respect of this Lease and the rents and other sums due and to become due in respect of all Equipment leased hereunder or in respect of this Lease and the rents and other sums due and to become due in respect of the Equipment described in one or more Schedules hereto, and may be either absolute or as collateral security for indebtedness of the Lessor. In the event that separate assignments are executed by the Lessor in respect of this Lease and the rental and other sums due and to become due hereunder the Lessor and the Lessee agree that so long as such separate assignments remain in force and effect this Lease shall be deemed to be and shall be construed as a divisible and severable contract between the Lessor and the Lessee for the leasing of the Equipment covered by each such separate assignment, all to the same extent with the same force and effect as though a separate lease had been entered into by the Lessor and the Lessee in respect of such Equipment, subject however to the provisions of Section 14.5 here

16.2. Rights of Assignee for Collateral Purposes. No such assignee (the "Assignee") for collateral purposes shall be obligated to perform any duty, covenant or condition required to be performed by the Lessor under any of the terms hereof, but on the contrary, the Lessee by its execution hereof acknowledges and agrees that notwithstanding any such assignment each and all such covenants, agreements, representations and warranties of the Lessor shall survive any such assignment and shall be and remain the sole liability of the Lessor and of every person, firm or corporation succeeding (by merger, consolidation, purchase of assets or otherwise) to all or substantially all of the business assets or goodwill of the Lessor. Without limiting the foregoing, the Lessee further acknowledges and agrees that from and after the receipt by the Lessee of written notice of an assignment from the Lessor or Assignee: (i) all rents and other sums which are the subject matter of the assignment shall be paid to the Assignee at the place of payment designated in the notice, (ii) if such assignment was made for collateral purposes, the rights of the Assignee in and to the rents and other sums payable by the Lessee under any provisions of this Lease shall be absolute and unconditional and shall not be subject to any abatement whatsoever, or to any defense, setoff, counterclaim or recoupment whatsoever by reason of any damage to or loss or destruction of the Equipment (except as otherwise provided in Section 11 hereof) or by reason of any defect in or failure of title of the Lessor to the Equipment or any interruption from whatsoever cause (other than from the wrongful act of such Assignee in the use, operation or possession of the Equipment or by reason of any indebtedness or liability howsoever and whenever arising from the Lessor to the Lessee or to any other person, firm, corporation or governmental agency or taxing authority or for any other reason) and (iii) the Assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Assignee) which by the terms of this Lease or by applicable law are permitted or provided to be exercised by the Lessor.

16.3. Security Interest Subject to Lease. It is further understood and agreed that if a security interest in the Equipment is granted to the Assignee of the rents as additional security for indebtedness of the Lessor, the security agreement covering the Equipment shall expressly provide that the right, title and interest of the secured party thereunder is subject to the right, title and interest of the Lessee under this Lease in and to the Equipment.

SECTION 17. ASSIGNMENTS BY LESSEE: USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment. So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession, use and quiet enjoyment of the

Equipment in accordance with the terms of this Lease (including delivery of the same to railroad companies or other carriers for movement thereof in accordance with instructions of the Lessee) without the prior written consent of the Lessor which will not be unreasonably withheld, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment.

17.2. Use and Possession by Lessee, Interchange, "Mileage"
So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to and shall have the exclusive use and possession of the Equipment. The Lessee agrees that the Equipment will be used within the continental United States. The Lessee agrees that it will not, without the prior written consent of the Lessor which consent shall not be unreasonably withheld, assign this Lease or any of its rights hereunder or sublease any Item of Equipment; provided, however, that nothing contained in this Lease shall be deemed to prevent the assignment or sublease of any Item of Equipment to a subsidiary of the Lessee, or to the Lessee's vendors, customers and consignees of goods being shipped. No such assignment or sublease or permitted use shall relieve the Lessee of any of the obligations, liabilities or duties hereunder which shall be and remain those of a principal and not a surety. The Lessee may receive and retain for its own account such compensation for subletting the Equipment and/or for the use of the Equipment by others as the Lessee may determine. Without limiting the foregoing it is contemplated that the Lessor shall collect all mileage allowances, rentals and/or other compensation (hereinafter referred to as "Mileage") payable by carriers by reason of the use, ownership or operation of the Equipment, and the Lessor shall remit said Mileage so collected to the Lessee to the extent the aggregate of the rentals and additional rentals paid or payable by the Lessee and including the date of any such remittance, less the aggregate of any prior remittance of Mileage; provided, however, that if, at any time during the term of this Lease, or within sixty (60) days after termination of this Lease, the Lessee shall furnish to the Lessor an opinion, ruling or other evidence reasonably satisfactory to the Lessor's legal counsel to the effect that the Lessor may lawfully remit to the Lessee all or any portion of said Mileage which exceeds the rentals and additional rentals hereunder, the Lessor shall remit such excess Mileage within ten (10) days after demand therefor by the Lessee or, in the case of any such excess Mileage collected by the Lessor after such demand by the Lessee, within thirty (30) days after the collection thereof by the Lessor. The obligation of the Lessor under this Section 17.2 shall survive the termination of this Lease.

SECTION 18. OPINION OF LESSEE'S COUNSEL.

Concurrently with the delivery and acceptance of the first Item of Equipment hereunder, the Lessee will deliver to the Lessor ten counterparts of the written opinion of counsel for the Lessee addressed to the Lessor, the Trustor and to each Assignee referred to in Section 16 hereof of which the Lessee has notice, in scope and substance satisfactory to the Lessor, to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Delaware;

(b) The Lessee has full right, power and authority and is duly authorized to conduct the business in which it is now engaged and to execute and perform this Lease and the Acquisition Agreement, and is duly licensed or qualified as a foreign corporation in all states and jurisdictions wherein the nature of the business transacted by the Lessee or the nature of the property owned or leased by it makes such licensing or qualification necessary;

(c) This Lease and the Acquisition Agreement have each been duly authorized, executed and delivered by the Lessee and constitute the legal, valid and binding agreements of the Lessee enforceable in accordance with their respective terms;

(d) This Lease has been filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and no other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment in the United States of America;

(e) No approval, consent or withholding of objection on the part of any regulatory body, state, Federal or local, is necessary in connection with the execution and delivery or performance by the Lessee of the Acquisition Agreement or the Lease;

(f) The execution and delivery by the Lessee of the Acquisition Agreement and this Lease do not violate any provision of any law, any order of any court or governmental agency, the Charter or By-laws of the Lessee, or any indenture, agreement or other instrument to which the Lessee is a party or by which it, or any of its property is bound, and will not be in conflict with, result in the breach of, or constitute (with due notice and/or lapse of time) a

default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Lessee, except as contemplated and permitted hereby; and

(g) As to any other matter which the Lessor shall reasonably request.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNTS PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding any nonpayment of rentals due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay an amount equal to 10% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. OPTIONS TO PURCHASE AND RENEW.

20.1. Option to Purchase. Provided that the Lessee is not in default, the Lessee shall have the following option to purchase:

(a) The Lessee shall have the right to purchase all but not less than all of the Equipment then leased hereunder at the expiration of the original term or any renewal term at a price equal to the "fair market value" (as defined). The Lessee shall give the Lessor written notice 180 days prior to the end of the term of its election to exercise the purchase option provided for in this Section. Payment of the option price shall be made at the place of payment specified in Section 2 hereof in funds there current against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters.

(b) The "fair market value" shall be an amount mutually agreed upon by the Lessor and the Lessee; provided that if the Lessor and the Lessee are unable to agree upon

the fair market value of the Equipment within 30 days after receipt by the Lessor of the notice of the Lessee's election to exercise the purchase option, the fair market value shall be determined by an appraiser selected by mutual agreement of the Lessor and the Lessee. If the Lessor and the Lessee are not able to agree upon an appraiser, or if the fair market value is not so determined within 30 days after receipt by the Lessor of the Lessee's election to purchase, the same shall be determined by American Appraisal Company. The fair market value as finally determined shall bear interest for the period, if any, from the date of expiration of this Lease to the date of payment at the rate of 9% per annum.

(c) Unless the Lessee has given the Lessor 180 days notice as required in connection with exercise of the foregoing option, all the Equipment then leased hereunder shall be returned to the Lessor in accordance with Section 1 hereof.

Notwithstanding any election of the Lessee to purchase, the provisions of Section 11 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Equipment purchased by the Lessee upon the date of purchase unless the purchase price has been agreed upon by the parties pursuant to this Section 20.1, in which event such purchase price shall govern.

20.2. Option to Renew. Provided that the Lessee is not in default, the Lessee shall have the following renewal options:

(a) The Lessee shall have the option to renew and extend this Lease as to all, but not less than all, of the Equipment then leased hereunder for 3 additional renewal terms of 2 years each upon and subject to the terms and conditions herein contained for the original term of this Lease, excepting only that the quarterly Fixed Rental payable for and during such renewal terms shall be an amount equal to the "fair rental value" (as defined) of such Equipment. Each such renewal term shall commence immediately upon the expiration of the preceding term. The Lessee shall give the Lessor written notice not less than 180 days nor more than 270 days prior to the end of the original term or the then current renewal term of its election to exercise any renewal option provided for by this Section 20.2.

(b) The "fair rental value" shall be an amount mutually agreed upon by the Lessor and the Lessee; provided that if the Lessor and the Lessee are unable to

agree upon the fair rental value of the Equipment within 30 days after receipt by the Lessor of the notice of the Lessee's election to exercise any renewal option, the fair rental value shall be determined by an appraiser selected by mutual agreement of the Lessor and the Lessee. If the Lessor and the Lessee are not able to agree upon an appraiser, or if the fair rental value is not so determined within 30 days after receipt by the Lessor of the Lessee's election to purchase, the same shall be determined by American Appraisal Company.

SECTION 21. INDEMNITY IN RESPECT OF TAX MATTERS.

(a) This Lease, the Trust Agreement and the Acquisition Agreement have been entered into on the basis that the Lessor shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended, to the date hereof (hereinafter called the "Code") to an owner of property including (without limitation), an allowance for the Depreciation Deduction and the Interest Deduction (as defined in Section 14.2(c) of this Lease) and the Investment Tax Credit (as defined in Section 14.2(c) of this Lease).

(b) With respect to any Item of Equipment, if (other than for the reasons set forth below) the Lessor shall lose or shall not have or shall lose the right to claim, or if (other than for the reasons set forth below) there shall be disallowed with respect to the Lessor, all or any portion of, the Investment Credit or the Depreciation Deduction or the Interest Deduction with respect to any Item of Equipment in computing taxable income under the accelerated methods of depreciation provided in Section 167(b) of the Code for the period this Lease is in effect then, after written notice thereof to the Lessee by the Lessor, the rental rate applicable to such Item of Equipment set forth in Section 2 of this Lease shall be increased by an amount for such Item of Equipment which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States or any political subdivision thereof, in the reasonable opinion of the Lessor, will cause the Lessor's net return in respect of such Item of Equipment under this Lease equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Investment Credit or the Depreciation Deduction or the Interest Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor as additional rental the amount of any interest or penalty which may be assessed by the United States against the Lessor attributable to the loss of all or any

portion of the Investment Credit or Depreciation Deduction, provided, however, that such rental rate shall not be so increase if the Lessor shall have lost, or shall not have or shall have lost the right to claim, or if there shall have been disallowed with respect to the Lessor all or any portion of, the Investment Credit or the Depreciation Deduction or the Interest Deduction with respect to such Item of Equipment as a direct result of the occurrence of any of the following events:

(i) A Casualty Occurrence or a voluntary termination under Section 11.4 with respect to such Item of Equipment, if the Lessee shall have paid to the Lessor the amounts stipulated under Section 11 hereof;

(ii) A voluntary transfer by the Lessor (other than as contemplated by any security agreement executed by the Lessor in respect of the Equipment) of legal title to such Item of Equipment, the disposition by the Lessor of any interest in such Item of Equipment or the reduction by the Lessor of its interest in the rentals from such Item of Equipment under the Lease unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) The failure of the Lessor to claim the Investment Credit or the Depreciation Deduction or the Interest Deduction in its income tax return for the appropriate year or the failure of the Lessor to follow proper procedure in claiming the Investment Credit or the Depreciation Deduction or the Interest Deduction with respect to such Item of Equipment;

(iv) The failure of the Lessor to have sufficient liability for the tax against which to credit such Investment Tax Credit or sufficient income to benefit from the Depreciation Deduction or the Interest Deduction as applicable; or

(v) The Lessor fails to take timely action in contesting a claim made by the Internal Revenue Service with respect to the disallowance of such Investment Tax Credit or Depreciation Deduction or Interest Deduction, if the failure to take such action in a timely manner shall have precluded the right of the Lessee to contest any such claim after a timely request to conduct such contest has been given by the Lessee to the Lessor (provided that the Lessee shall upon demand of the Lessor pay to the Lessor the expenses of any such contest as a condition of prosecuting the same); or the release, waiver, compromise or settlement of any action or proceeding taken in accordance with this subparagraph (v) by the Lessor without the prior written consent of the Lessee.

(c) The Lessor agrees that if, in the opinion of its c the Lessee's independent tax counsel (herein referred to as "Counsel"), a bona fide claim to all or a portion of the Investme Credit or a bona fide claim to all or a portion of the Depreciati Deduction or the Interest Deduction on any Item of Equipment, exi in respect of which the Lessee is required to pay increased rents and interest and/or penalty as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of th Lessee, take all such legal or other appropriate action deemed reasonable by Counsel in order to sustain such claim. The Lessor may take such action prior to making the payment of the amount claimed pursuant to a notice of disallowance or make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pa to the Lessor interest on the amount of the tax paid attributable to the Depreciation Deduction and/or the Interest Deduction and/c Investment Credit disallowed, at the rate of 9% per annum, from t date of payment of such tax to the date the Lessee shall reimburs the Lessor for such tax in accordance with the provisions of this Section 21. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have agreed in writing to indemnify the Lessor for all liabilities and expenses which may be entailed therein and shall have furnish the Lessor with such reasonable security therefor as may be requested.

(d) The Lessee's agreement to pay any sums which may become payable pursuant to this Section 21 shall survive the expiration or other termination of this Lease.

(e) The Lessee represents and warrants that (i) none of the Items of Equipment constitute property the construction, reconstruction or erection of which was begun before April 1, 197 (ii) at the time the Lessor becomes the owner of the Items of Equipment, such Items of Equipment will constitute "new section 3 property" within the meaning of Section 48(b) of the Code and at time the Lessor becomes the owner of all Items of Equipment, the Items of Equipment will not have been used by any person so as to preclude "the original use of such property" within the meaning o Section 48(b) and Section 167(c)(2) of the Code from the commenci with the Lessor, and (iii) at all times during the term of this Lease, each Item of Equipment will constitute "section 38 propert; within the meaning of Section 48(a) of the Code.

SECTION 22. MISCELLANEOUS.

22.1. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, addressed as follows:

If to the Lessor: The First National Bank of Chicago
One First National Plaza
Chicago, Illinois 60670

Attention: Corporate Trust Division

If to the Lessee: American Metal Climax, Inc.
(AMAX Coal Company Division)
105 South Meridian Street
Indianapolis, Indiana 46225

Attention:

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

22.2. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

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

22.4. Limitations of Liability. It is expressly understood and agreed by and between the Lessor, the Trustor and the Lessee and their respective successors and assigns, that this Lease is executed by The First National Bank of Chicago, not individually or personally but solely as Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Trustee (and The First National Bank of Chicago hereby warrants that it possesses full power and authority to enter into and perform this Lease); and it is expressly understood and agreed that, except in the case of gross negligence or willful misconduct of the Lessor or the Trustor, nothing herein contained shall be construed as creating any liability on the Lessor or the Trustor, individually or personally, to perform any covenant either express or implied contained herein, all such liability, if any, being expressly waived by the Lessee and by each and every person now or hereafter claiming by, through or under the Lessee; and that so far as Lessor or the Trustor, individually or personally are concerned, the Lessee and any person

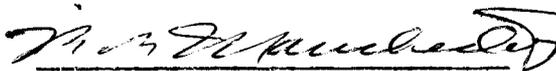
claiming by, through or under the Lessee shall look solely to the Trust Estate as defined in the Trust Agreement for the performance of any obligation under this Lease.

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

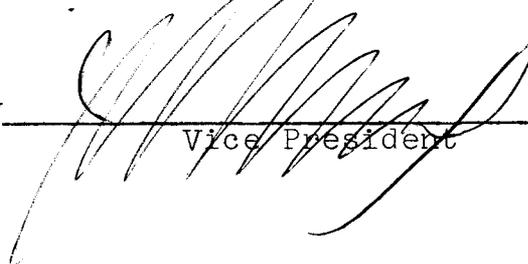
(CORPORATE SEAL)

THE FIRST NATIONAL BANK OF CHICAGO,
as Trustee under a Trust Agreement
dated as of March 15, 1974

ATTEST:


Secretary

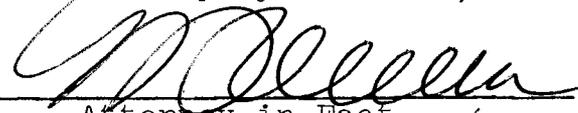
By


Vice President

LESSOR

AMERICAN METAL CLIMAX, INC.
(AMAX Coal Company Division)

By


Attorney-in-Fact under
Power of Attorney dated Dec 18, 19
LESSEE

STATE OF ILLINOIS }
COUNTY OF COOK } SS

On this 11th day of April, 1974, before me personally appeared J. R. Grimes, to me personally known, who being by me duly sworn, says that he is a Vice President of THE FIRST NATIONAL BANK OF CHICAGO, that one of the seals affixed to the foregoing 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.

(NOTARIAL SEAL)

Joan M. Nowak
Joan M. Nowak, Notary Public

My commission expires: June 22, 1975

STATE OF ILLINOIS }
COUNTY OF COOK } SS

On this 11th day of April, 1974, before me personally appeared George W. Schelle, to me personally known, who being by me duly sworn, says that he is an Attorney-in-Fact of AMERICAN METAL CLIMAX, INC. (AMAX Coal Company Division) acting under a Power of Attorney dated January 24, 1974, that said instrument was signed on behalf of said corporation pursuant to said Power of Attorney and by authority of its Board of Directors; and that under said Power of Attorney no seal of said corporation need be affixed, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Joan M. Nowak
Joan M. Nowak, Notary Public

My commission expires: June 22, 1975

SCHEDULE A-1

MANUFACTURER: General Motors Corporation
(Electro-Motive Division)

PLANT OF MANUFACTURER: Mc Cook, Illinois

DESCRIPTION OF EQUIPMENT: Two (2) 2000 H.P. Model GP38-
Diesel Electric Locom

ROAD OR CAR NUMBERS: WG-1 and WG-2

ESTIMATED INVOICE COST: \$267,039.00

TOTAL ESTIMATED INVOICE COST: \$534,078.00*

OUTSIDE DELIVERY DATE: May 31, 1974

DELIVER TO: Gibson, Indiana
AMERICAN METAL CLIMAX, INC.
(AMAX Coal Company Division)

FIXED RENTAL PAYMENTS Sixty (60) quarterly rental
payments in arrears each in an
amount equal to 2.4037% of the
Invoice Cost of each Item of
Equipment.

LESSEE: American Metal Climax, Inc.
(AMAX Coal Company Division)

TRUSTOR: Circle Equity Leasing Corp.

* Exclusive of freight - F.O.B.
McCook, Ill.

SCHEDULE A-2

MANUFACTURER: Ortner Freight Car Company

PLANT OF MANUFACTURER:

DESCRIPTION OF EQUIPMENT: Eighty 100-ton hopper cars

ROAD OR CAR NUMBERS: AMAX 201 to 280, both inclusive

ESTIMATED INVOICE COST: \$21,950.99 per unit

TOTAL ESTIMATED INVOICE COST: \$1,756,079.20

OUTSIDE DELIVERY DATE: May 31, 1974

DELIVER TO:

FIXED RENTAL PAYMENTS: Sixty (60) quarterly rental payments in arrears each in an amount equal to 2.4037% of the Invoice Cost of each Item of Equipment.

LESSEE: American Metal Climax, Inc.
(AMAX Coal Company Division)

TRUSTOR: Circle Equity Leasing Corp.

SCHEDULE A-3

MANUFACTURER: International Ramco, Inc.
(International Car Company Divis

PLANT OF MANUFACTURER:

DESCRIPTION OF EQUIPMENT: One 50-ton bay window caboose

ROAD OR CAR NUMBERS: AMAX 900

ESTIMATED INVOICE COST: \$35,231.45

TOTAL ESTIMATED INVOICE COST: \$35,231.45

OUTSIDE DELIVERY DATE: May 31, 1974

DELIVER TO:

FIXED RENTAL PAYMENTS: Sixty (60) quarterly rental payments in arrears each in an amount equal to 3.4237% of the Invoice Cost of each Item of Equipment.

LESSEE: American Metal Climax, Inc.
(AMAX Coal Company Division)

TRUSTOR: Circle Equity Leasing Corp.

SCHEDULE OF CASUALTY VALUE

CASUALTY VALUE: The following per cent of the Invoice Cost of an Item of Equipment, including all taxes and delivery charges, is to be paid on a Fixed Rental Payment Date pursuant to Section 11 of the Equipment Lease as the result of an Item becoming the subject of a Casualty Occurrence, depending upon when the Casualty Value is paid; provided that if, pursuant to Section 11. of the Lease, the Casualty Value of an Item is to be paid on the Fixed Rental Commencement Date, then the Lessee shall pay the Lessor an amount equal to the sum of (i) the Invoice Cost for such Item, plus (ii) the accrued Interim Rent for such Item pursuant to Section 4(a) of the Lease, plus (iii) 6.64% of the Invoice Cost of such Item:

<u>Rental Payment Date No.</u>	<u>Casualty Value Payable Per Item</u>
1	106.92%
2	106.89%
3	106.79%
4	106.63%
5	106.41%
6	106.13%
7	105.79%
8	105.40%
9	104.96%
10	104.46%
11	103.91%
12	103.31%
13	97.99%
14	97.28%
15	96.53%
16	95.72%
17	94.87%
18	93.97%
19	93.05%
20	92.10%
21	86.46%
22	85.47%
23	84.46%
24	83.42%
25	82.36%
26	81.27%

SCHEDULE OF CASUALTY VALUE

(Con't)

Rental Payment
Date No.

Casualty Value
Payable Per Item

27	80.15%
28	79.01%
29	73.18%
30	71.99%
31	70.76%
32	69.51%
33	68.23%
34	66.92%
35	65.57%
36	64.20%
37	62.79%
38	61.37%
39	59.93%
40	58.47%
41	57.00%
42	55.51%
43	53.99%
44	52.46%
45	50.91%
46	49.35%
47	47.76%
48	46.15%
49	44.51%
50	42.86%
51	41.18%
52	39.49%
53	37.76%
54	36.02%
55	34.25%
56	32.45%
57	30.63%
58	28.78%
59	26.91%
60	15%
and thereafter	

SCHEDULE OF TERMINATION VALUE

TERMINATION VALUE: The following per cent of the Invoice Cost of an Item of Equipment, including all taxes and delivery charges, is to be paid on a Fixed Rental Payment Date pursuant to Section 11.4 of the Equipment Lease as the result of Lessee's termination of the Equipment Lease with respect to such Item:

<u>Rental Payment Date No.</u>	<u>Termination Value Payable Per Item</u>
28	69.70%
29	63.73%
30	62.39%
31	61.02%
32	59.62%
33	58.19%
34	56.73%
35	55.24%
36	53.71%
37	52.14%
38	50.56%
39	48.96%
40	47.34%
41	45.69%
42	44.03%
43	42.35%
44	40.64%
45	38.92%
46	37.17%
47	35.40%
48	33.60%
49	31.78%
50	29.94%
51	28.07%
52	26.17%
53	24.25%
54	22.30%
55	20.32%
56	18.32%
57	16.28%
58	14.22%
59	12.13%

SCHEDULE C
to Equipment Lease

CERTIFICATE OF ACCEPTANCE NO.
UNDER EQUIPMENT LEASE

TO: THE FIRST NATIONAL BANK OF CHICAGO,
as Trustee under AMAX Trust No. 1

I, a duly appointed inspector and authorized representative of American Metal Climax, Inc. (AMAX Coal Company Division) (the "Lessee") for the purpose of the Agreement to Acquire and Lease a the Equipment Lease, both dated as of March 15, 1974, between The First National Bank of Chicago, as Trustee under AMAX Trust No. 1 as Lessor, and the Lessee, do hereby certify that I have inspected, received, approved and accepted delivery on behalf of the Lessee and under said Agreement, of the following pieces of Equipment:

TYPE OF EQUIPMENT:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

I do further certify that the foregoing Equipment is in good order and condition, and appears to conform to the specifications applicable thereto and to all applicable requirements and specifications of the Interstate Commerce Commission and/or United States Department of Transportation and that each Item has been marked in accordance with Section 4.2 of the Lease.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer of the Equipment for any warranties it has made with respect to the Equipment.

DATED: , 19

Inspector and Authorized Representative
AMERICAN METAL CLIMAX, INC.
(AMAX COAL COMPANY DIVISION)