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RECORDATION NO. \_\_\_\_\_ Filed & Recorded

SEP 4 1974 4:00 PM

INTERSTATE COMMERCE COMMISSION

ADDENDUM NO. 1 TO EQUIPMENT LEASE

BETWEEN

FCB LEASING LTD., Lessor

AND

SOUTHWIDE, INC., Lessee

By the execution of this Addendum No. 1, FCB LEASING LTD. ("Lessor") and SOUTHWIDE, INC. ("Lessee") consent to the terms and provisions of this Addendum to Equipment Lease No. 73-4-76-1 (the "Lease") and to making the terms and provisions hereof a part of said Lease.

FIRST: Each Rental Schedule executed and delivered pursuant to the provisions of Section 6 of the Lease shall provide for One Hundred and Eight (108) consecutive equal monthly payments, in advance, in an amount equal to 1.476% of the Acquisition Cost for each item of Equipment listed in said Rental Schedule. Lessor and Lessee agree and acknowledge that said rental payments are predicated on simple interest at the rate of  $11\frac{1}{4}\%$  per annum. In the event that the prime interest rate (as hereinafter defined) as of any date subsequent to the date of execution of this Addendum is less than the rate of 7% per annum, the rental payment due on the next following Rental Payment Date and on each succeeding Rental Payment Date will be adjusted to reflect a rental based on a simple interest rate of  $9\frac{1}{4}\%$  per annum for the balance of the lease term, and such reduced rental shall continue during the remaining term of this Lease notwithstanding that at any time or times thereafter said prime interest rate shall increase to a rate greater than 7% per annum. As used herein the term "prime interest rate" shall mean the prime interest rate of First National City Bank, New York City, on ninety (90) day commercial loans to its largest and most responsible corporate borrowers. For the purpose of determining the rental payments due on account of any adjustments required by the foregoing provisions hereof, reference shall be made to Financial Compound Interest and Annuity Tables (Fifth Edition) published by Financial Publishing Company.

SECOND: The following section to be designated "Section 24" is hereby added to said Lease:

"Section 24. Renewal and Purchase Options of Lessee. Not more than six (6) months prior to the end of the original lease term for the first item of Equipment leased hereunder (and, if the original lease term for all of the items of Equipment then leased hereunder is extended as hereinafter provided, not more than six (6) months prior to the end of each one (1) year extension) Lessee shall (in the event Lessor and Lessee shall not have previously agreed upon the

fair market value) cause the Appraiser (as hereinafter defined) to make, at the expense of the Lessee, an appraisal of the fair market value of all items then leased hereunder, and the report of the Appraiser setting forth its determination of such fair market value shall be delivered both to Lessor and Lessee not later than four (4) months prior to the end of such lease term (and each such extended term). Such fair market value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction, assuming, whether or not such is true, the items to be in the condition and maintained as required by Section 13 hereof, between an informed and willing buyer-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. Such fair market value as so determined in respect of any such item is hereinafter called the "Market Value" of such item.

Lessee, by written notice delivered to Lessor not later than three (3) months prior to the end of the original lease term (and each such extended term) for such first item leased hereunder, unless an Event of Default as defined in Section 19 hereof shall have occurred and be continuing, may elect to purchase all, but not fewer than all, of the items then leased for an aggregate purchase price equal to the greater of (i) the Market Value of all such items or (ii) the applicable percentage of the Acquisition Cost of all such items, determined as follows:

- (a) The applicable percentage during the three (3) month period prior to the expiration of the original lease term for the first item of Equipment delivered and leased hereunder shall be fifteen percent (15%);
- (b) The applicable percentage during the three (3) month period prior to the end of the first extended one (1) year term (if the lease is so extended) shall be ten percent (10%);
- (c) The applicable percentage during the three (3) month period prior to the end of the second term (if the lease is so extended) shall be ten percent (10%);
- (d) The applicable percentage during the three (3) month period prior to the end of the third extended term (if the lease is so extended) shall be five percent (5%).

The applicable portion of said purchase price is to be payable for each such item on the date on which the lease term for each item expires. Upon payment of any such portion of such purchase price, Lessor shall upon request of Lessee execute and deliver to Lessee, a bill of sale (without representations or warranties except that such items are free and clear of all

claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under Lessor) for such items paid for, and such other documents as may be required to release such items from the terms and scope of this Lease and to transfer title thereto to the Lessee in such form as may reasonably be requested by Lessee, all at Lessee's expense.

The term Appraiser shall mean such independent appraiser as Lessor and Lessee may mutually agree upon, or, failing such agreement, a panel of three independent appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two so selected.

In the event that Lessee does not exercise the purchase options hereinabove described, Lessee, by written notice delivered to Lessor not later than three (3) months prior to the end of the original (and each such extended) lease term for such first item leased hereunder, unless an Event of Default as defined in Section 19 hereof shall have occurred and be continuing, may elect to extend the term of this Lease for three (3) one (1) year terms with respect to not fewer than all of the items of Equipment then leased hereunder at an annual rental payable in a lump sum on or before the commencement of such extended term as follows:

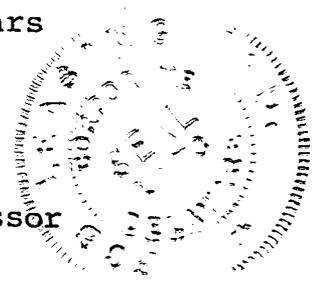
- (a) The annual rental for the first one (1) year extended term shall be equal to four percent (4%) of the Acquisition Cost of all items of Equipment then leased hereunder;
- (b) The annual rental for the second one (1) year extended term shall be equal to three percent (3%) of the Acquisition Cost of all items of Equipment then leased hereunder;
- (c) The annual rental for the third one (1) year extended term shall be equal to three percent (3%) of the Acquisition Cost of all items of Equipment then leased hereunder."

THIRD: The following subsection to be designated "(g)" is hereby added to Section 11 of the Lease immediately following Subsection (f):

"(g) Any claims for a brokerage commission or fees as a result of the consummation of this Lease except for any brokerage commissions due to Tri-Continental Leasing Company, which as between Lessor and Lessee shall be borne by Lessor."

FOURTH: The Equipment to be leased hereunder shall consist of not more than one hundred (100) used refrigerator

boxcars and the aggregate Acquisition Cost for each item shall not exceed Eight Thousand Two Hundred Fifty Dollars (\$8,250.00), plus applicable taxes.



SOUTHWIDE, INC., Lessee

FCB LEASING LTD., Lessor

BY: *PA Campbell*

BY: *John H. Hyle*

TITLE: *Vice Pres*

TITLE: *EXECUTIVE VICE PRES.*

DATE: *10/15/73*

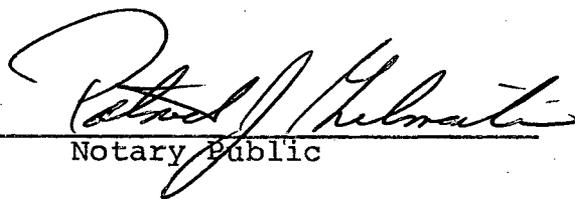
DATE: *10/15/73*





STATE OF NEW YORK )  
 ) :  
COUNTY OF NEW YORK )

On this 29<sup>th</sup> day of August, 1974, before me personally came John J. Stigle, to me known, who, being by me duly sworn, did depose and say that he resides at 36 Middle Road, Sudbury, Massachusetts; that he is Executive Vice President of FCB LEASING LTD., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors and said corporation, and that he signed his name thereto by like order.

  
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Notary Public

PATRICK J. GILMARTIN  
Notary Public, State of New York  
No. 1437460  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires March 30, 1975