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ROPES & GRAY

DEC 8 1988 11 30 AM 225 FRANKLIN STREET BOSTON, MASSACHUSETTS 02110

INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

December 30, 1988

INTERSTATE COMMERCE COMMISSION

Ms. Noretta R. McGee, Secretary Interstate Commerce Commission Twelfth Street and Constitution Avenue, N.W. Washington, D.C. 20423

DEC 30 11 42 AM MOTOR MAIL STORE ROOM 100 OFFICE OF THE STORE ROOM

Dear Secretary:

On behalf of our client, Security Pacific Equipment Leasing, Inc., enclosed are an original and one counterpart of the documents described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The documents (the "Documents") are:

- (1) Collateral Assignment and Security Agreement, dated as of June 25, 1988 ("Collateral Assignment"), a Primary Document.
- (2) Lease Agreement, dated as of June 25, 1988 ("Headlease"), a Primary Document.
- (3) Restated Lease Agreement, dated as of June 25, 1988 (the "Sublease"), a Primary Document which is related to:
 - (a) Lease Agreement, dated as of December 30, 1987, a Primary Document, filed with the Interstate Commerce Commission on January 4, 1988 and assigned Recordation No. 15440; and
 - (b) Lease Supplement No. 1, dated as of December 31, 1987, a Secondary Document, filed with the Interstate Commerce Commission on January 4, 1988 and assigned Recordation No. 15440-A.
- (4) German Lessor Security Agreement, dated as of June 30, 1988 (the "German Lessor Security Agreement"), a Primary Document.

C. [Signature]

No. Date DEC 30 1988 Fee \$ 53.00 REC [Signature]

8-365A015

December 30, 1988

The Primary documents to which documents numbered (1), (2) and (4) are related are the Collateral Assignment, the Headlease and the German Lessor Security Agreement referred to above, for which no recordation numbers have yet been issued.

All capitalized terms used herein without definition have the meanings assigned thereto in Restated Schedule X to the Headlease.

The names and addresses of the parties to the Documents are as follows:

Secured Party in Document (1), Lessor in Document (2) and Debtor in Document (4):

DB Export-Leasing GmbH
Taunusanlage 12
D-6000 Frankfurt am Main 1
Federal Republic of Germany

Debtor in Document (1), Lessee In Document (2), Lessor in Document (3) and Secured Party in Document (4):

Security Pacific Equipment Leasing, Inc.
Four Embarcadero Center
Suite 1200
San Francisco, CA 94111
Attention: Manager, Operations Department LEV

Lessee in Document (3):

Massachusetts Bay Transportation Authority
Ten Park Plaza
Boston, MA 02116
Attention: Treasurer-Controller

A description of the equipment covered by the Documents follows:

34 commuter rail coaches manufactured by Messerschmitt-Bolkow-Blohm GmbH (the "Manufacturer") pursuant to the Purchase Agreement, dated August 7, 1985, as amended, between the Manufacturer and Massachusetts Bay Transportation Authority ("MBTA") and identified by MBTA vehicle identification numbers 500 through 516, inclusive, and 1500 through 1516, inclusive.

A fee of \$40.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to Goodwin, Procter & Hoar, Exchange Place, Boston, MA 02109, Attention: F. Beirne Lovely, Jr., Esq.

A short summary of the Documents to appear in the index follows:

1. Primary Document. Collateral Assignment and Security Agreement, dated as of June 25, 1988, between DB Export-Leasing GmbH ("DBX"), Taunusanlage 12, D-6000 Frankfurt am Main 1, Federal Republic of Germany, as secured party, and Security Pacific Equipment Leasing, Inc. ("Security Pacific"), Four Embarcadero Center, Suite 1200, San Francisco, CA 94111, as debtor, pursuant to which Security Pacific grants a security interest to DBX in, among other things, its rights and interests as lessor to a Restated Lease Agreement, dated as of June 25, 1988, between Security Pacific and Massachusetts Bay Transportation Authority, Ten Park Plaza, Boston, MA 02116, as lessee, including the rentals and other payments due thereunder.
2. Primary Document. Lease Agreement, dated as of June 25, 1988, between DB Export-Leasing GmbH, Taunusanlage 12, D-6000 Frankfurt am Main 1, Federal Republic of Germany, as lessor, and Security Pacific Equipment Leasing, Inc., Four Embarcadero Center, Suite 1200, San Francisco, CA 94111, as lessee with respect to the lease of 34 commuter rail coaches manufactured by Messerschmitt-Bolkow-Blohm GmbH.
3. Primary Document. Restated Lease Agreement, dated as of June 25, 1988, between Security Pacific Equipment Leasing, Inc., Four Embarcadero Center, Suite 1200, San Francisco, CA 94111, as lessor, and Massachusetts Bay Transportation Authority, Ten Park Plaza, Boston, MA 02116, as lessee, covering 34 commuter rail coaches manufactured by Messerschmitt-Bolkow-Blohm GmbH, which amends and restates the following documents previously filed with the Interstate Commerce Commission:
 - (a) Lease Agreement between Security Pacific Equipment Leasing, Inc., Four Embarcadero Center, Suite 1200, San Francisco, CA 94111, as lessor, and Massachusetts Bay Transportation Authority, Ten Park Plaza, Boston, MA 02116, as lessee, dated as of December 30, 1987, covering 34 commuter rail coaches manufactured by Messerschmitt-Bolkow-Blohm GmbH, a Primary Document filed with the Interstate Commerce Commission on January 4, 1988 and assigned Recordation No. 15440; and

December 30, 1988

- (b) Lease Supplement No. 1 between Security Pacific Equipment Leasing, Inc., Four Embarcadero Center, Suite 1200, San Francisco, CA 94111, as lessor, and Massachusetts Bay Transportation Authority, Ten Park Plaza, Boston, MA 02116, as lessee, dated as of December 31, 1987, covering 34 commuter rail coaches constituting the equipment covered by the Lease Agreement dated December 30, 1987, a Secondary Document filed with the Interstate Commerce Commission on January 4, 1988 and assigned Recordation No. 15440-A.
4. Primary Document. German Lessor Security Agreement, dated as of June 30, 1988, between DB Export-Leasing GmbH ("DBX"), Taunusanlage 12, D-6000 Frankfurt am Main 1, Federal Republic of Germany, as debtor, and Security Pacific Equipment Leasing, Inc. ("Security Pacific"), Four Embarcadero Center, Suite 1200, San Francisco, CA 94111, as secured party, pursuant to which DBX grants a security interest to Security Pacific in its interest in 34 commuter rail coaches manufactured by Messerschmitt-Bolkow-Blohm GmbH (the "Equipment") leased to Security Pacific pursuant to a Lease Agreement (the "Headlease"), dated as of June 25, 1988, between DBX and Security Pacific to secure Security Pacific's purchase option under the Headlease.

A short summary of the transaction of which the Documents are a part follows:

The Documents have been entered into in connection with the refinancing of a leveraged lease transaction (which originally closed on December 31, 1987) pursuant to an Agreement to Purchase and Lease (the "Agreement to Purchase and Lease"), dated as of June 25, 1988, among Massachusetts Bay Transportation Authority (the "Sublessee"), Security Pacific Equipment Leasing, Inc. (the "U.S. Lessor"), DB Export-Leasing GmbH (the "German Lessor"), Deutsche Credit Corporation (the "Purchaser"), New England Merchants Funding Corporation (the "Original Noteholder") and Wilmington Trust Company, not in its individual capacity (except as therein provided) but solely as Indenture Trustee (the "Indenture Trustee"). In accordance with the Agreement to Purchase and Lease, the U.S. Lessor will transfer title to 34 commuter rail coaches (the "Equipment") currently leased to the Sublessee to the German Lessor and lease the Equipment back pursuant to a Lease Agreement, dated as of June 25, 1988 (the "Headlease"); the Equipment will continue to be leased to the Sublessee pursuant to a Restated Lease Agreement, dated as of June 25, 1988 (the "Sublease"). The purchase price of the

December 30, 1988

Equipment will be financed in part by the sale by the German Lessor to the Purchaser pursuant to an Accounts Receivable Purchase Agreement No. 1, dated June 25, 1988 ("Accounts Receivable Purchase Agreement") of a portion of the rentals to be paid under the Headlease. The U.S. Lessor will use the cash proceeds of the sale to repay in full the loan made in 1987 by the Original Noteholder and the Indenture Trustee will discharge the Trust Indenture and Security Agreement, dated as of December 30, 1987, as supplemented by Trust Indenture Supplement No. 1, dated as of December 31, 1987 ("Indenture"), entered into by the U.S. Lessor. The U.S. Lessor will retain its original investment in the form of an ownership interest of a portion of the rentals secured by the Collateral Assignment described below. The obligations of the U.S. Lessor under the Headlease will be secured by an assignment to the German Lessor of the U.S. Lessor's interest in the Sublease, among other things, pursuant to a Collateral Assignment and Security Agreement, dated as of June 25, 1988 (the "Collateral Assignment") and the obligations of the German Lessor under the Accounts Receivable Purchase Agreement will be secured by an assignment to the Purchaser of the German Lessor's interest in the Equipment, the Headlease and the Collateral Assignment. In addition, the German Lessor will grant a second security interest in the Equipment to the U.S. Lessor pursuant to a German Lessor Security Agreement, dated as of June 25, 1988, to secure the purchase option given to the U.S. Lessor under the Headlease.

The names and addresses of the other parties to such transaction are:

Purchaser of Accounts Receivable under the Headlease and Secured Party:

Deutsche Credit Corporation
2333 Waukegan Road
Deerfield, Illinois 60015

and, only for the purposes of agreeing to the prepayment of the note held by the Original Noteholder and the discharge of the Indenture:

Original Noteholder:

New England Merchants Funding Corporation
28 State Street
Boston, MA 02109
Attention: Halsey B. Collins, Esq.

Indenture Trustee:

December 30, 1988

Wilmington Trust Company, as Indenture Trustee
under the Trust Indenture and Security Agreement,
dated as of December 30, 1987
Rodney Square North
Wilmington, DE 19890
Attention: Corporate Trust Administration

Please acknowledge receipt of this letter of transmittal and its enclosures by appropriately stamping the enclosed copy of this letter and by returning it to Mr. Lovely in the addressed envelope enclosed for your convenience.

Very truly yours,

Ropes & Gray

By 
Partner

Enclosures: Collateral Assignment and Security Agreement -
Two Original Counterparts and One Notarized Copy
of each Counterpart
Lease Agreement - Original and Notarized Copy
Restated Lease Agreement - Original and Notarized Copy
German Lessor Security Agreement -
Original and Notarized Copy
Transmittal Letter (Copy)
Check (\$40.00)
Return Envelope (Postage Prepaid)

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RECORDED
DEC 17 1988 - 11:55 AM
INVESTIGATIVE SERVICES COMMISSION

All right, title and interest in and to this Lease Agreement and the Equipment covered hereby on the part of Security Pacific Equipment Leasing, Inc., as Lessor, have been assigned to and are subject to a security interest in favor of DB Export-Leasing GmbH under the Collateral Assignment and Security Agreement, dated as of June 25, 1988 (as such Collateral Assignment and Security Agreement may be amended or supplemented as permitted thereby) which security interest has been assigned to Deutsche Credit Corporation pursuant to the Accounts Receivable Purchase Agreement, dated as of June 25, 1988 (as such Accounts Receivable Purchase Agreement may be amended or supplemented as permitted thereby). This Lease Agreement has been executed in several counterparts. Only the original counterpart contains the receipt therefor executed by DB Export-Leasing GmbH, as secured party, and by Deutsche Credit Corporation, as assignee, immediately following the signature page thereof.

[Sublease]

RESTATED LEASE AGREEMENT

Dated as of June 25, 1988

Between

SECURITY PACIFIC EQUIPMENT LEASING, INC.,
Lessor,

and

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY,
Lessee.

34 Messerschmitt-Bolkow-Blohm Commuter Rail Coaches

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RESTATED LEASE AGREEMENT

This Agreement is dated as of June 25, 1988, and is between Security Pacific Equipment Leasing, Inc., a Delaware corporation (the "Lessor"), and Massachusetts Bay Transportation Authority, a body politic and corporate and a political subdivision of The Commonwealth of Massachusetts (the "Lessee").

WHEREAS, the Lessor and the Lessee are parties to that certain Lease Agreement, dated as of December 30, 1987 and Lease Supplement No. 1, dated December 31, 1987, entered into pursuant thereto (collectively, the "Lease"), relating to 34 Messerschmitt-Bolkow-Blohm commuter rail coaches (such coaches, as described in Annex 1 to such Lease Supplement No. 1, being herein called the "Equipment"); and

WHEREAS, pursuant to an Agreement to Purchase and Lease, dated the date hereof, among the Lessee, the Lessor, DB Export-Leasing GmbH (the "German Lessor"), New England Merchants Funding Corporation, Wilmington Trust Company, as Indenture Trustee, and Deutsche Credit Corporation (the "Agreement to Purchase and Lease"), the German Lessor shall acquire from, and thereafter lease back to, the Lessor, and the Lessor shall transfer to, and thereafter lease back from, the German Lessor, the Equipment, the Lender Notes shall be paid in full and the Indenture shall be discharged (the transactions described in this recital being herein called the "Cross Border Transactions"); and

WHEREAS, following the consummation of the Cross Border Transactions, the Lease will continue in full force and effect as a sublease of the Equipment by the Lessor to the Lessee; and

WHEREAS, the terms of the Lease must be modified to reflect the terms of the Cross Border Transactions, and accordingly the Lessor and the Lessee desire to amend, and restate in its entirety, the Lease;

NOW, THEREFORE, in consideration of the Lessor and the Lessee consummating the Cross Border Transactions and of the mutual promises contained herein, the Lessor and the Lessee agree as follows:

RESTATEMENT

As of the Effective Date, the Lease shall be considered amended and restated in its entirety to read as provided herein.

ARTICLE 1

DEFINITIONS

1.1. Certain Terms. The capitalized terms used herein which are defined in, or by reference in, Restated Schedule X annexed hereto and by this reference incorporated herein, as such capitalized terms may be amended from time to time in accordance with Section 21.1, shall have the meanings specified therein whether or not such terms are defined herein.

1.2. Rules of Construction. Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. Whenever reference is made in this Lease to any agreement, instrument or document, the same shall (unless the context otherwise requires) mean and refer to such agreement, instrument or document as amended and in effect at the relevant time of reference thereto.

ARTICLE 2

ACCEPTANCE UNDER PURCHASE AGREEMENT AND LEASE; PURCHASE OPTION; RENEWAL OPTION; APPRAISALS

2.1. Acceptance Under Purchase Agreement and Lease. The Lessor and the Lessee acknowledge that the Lessor has accepted delivery from Lessee and paid for and simultaneously delivered and leased to Lessee under this Lease, and the Lessee has accepted and leased from the Lessor under this Lease, the Equipment.

2.2. Return.

(a) Unless the Lessee exercises its purchase and/or a renewal option pursuant to Sections 2.3 and 2.5, at the expiration of the Basic Sublease Term or, if applicable, a Renewal Term or upon the earlier termination of this Lease pursuant to Article 12 or 13 hereof, the Lessee shall, at its own risk and expense, return all but not less than all items of Equipment then subject to this Lease to the Lessor at storage facilities of the Lessee designated by the Lessee, but reasonably satisfactory to the Lessor and the German Lessor.

(b) Upon any return of any item of Equipment to the Lessor, the Lessee shall deliver to the Lessor all logs,

manuals, certificates, data and inspection, modification and overhaul records which have been maintained with respect to such item of Equipment.

(c) The Equipment at the time when it is returned to the Lessor at the expiration of the Basic Sublease Term or any Renewal Term, or pursuant to Section 13, shall be in good operating condition (commercially usable by other commuter rail operators) and appearance, ordinary wear and tear excepted, shall be in the configuration and condition required by Sections 5 and 6, shall meet the standards then in effect under the Interchange Rules of the Association of American Railroads (if applicable) and/or the applicable rules of any governmental agency or other organization having jurisdiction, and shall be free and clear of all Liens and all rights, claims and interests of others, excepting Lessor Liens.

(d) Upon the expiration or termination of the lease of any item of Equipment hereunder, the Lessee will provide storage of such Equipment beyond the Sublease Term, for a period not exceeding 90 days, at the Lessor's risk and (except with respect to storage charges) expense; provided, that upon a Sublease Event of Default hereunder the Lessee will provide storage of such Equipment solely at the Lessee's risk and expense but only for a period not exceeding 90 days after receipt by the Lessor of a notice from the Lessee to remove the Equipment. Ninety days following receipt by the Lessor of a notice to remove the Equipment all risk and expense associated with the storage of the Equipment shall be borne solely by the Lessor.

(e) Subject to and without diminution of the Lessee's obligations under Section 2.2(d) or any other provision of this Lease, upon the expiration or termination of the lease of any item of Equipment hereunder but prior to the later of the return of such item of Equipment or the expiration of any period during which such item of Equipment is stored pursuant to Section 2.2(d), the Lessee shall, upon the Lessor's written request, perform such work on such item of Equipment as the Lessor may reasonably request, to the extent reasonably possible without disruption to the Lessee's normal operations or its preexisting commitments (if any); provided, that the foregoing shall not be construed to extend the Lessee's storage obligation beyond the 90 days referred to in Section 2.2(d). The Lessor shall reimburse the Lessee for such work at reasonable rates.

2.3. Purchase Option. Not fewer than 270 days prior to the end of the Basic Sublease Term or of either Renewal Term, as the case may be, the Lessee may deliver to the Lessor a written notice of the Lessee's tentative interest to purchase all (but not less than all) items of Equipment then subject to this Lease

at a price equal to, (A) in the case of a purchase at the end of the Basic Sublease Term, the lesser of (i) 60% of the Lessor's Purchase Price of such items of Equipment or (ii) the fair market sales value thereof determined as provided below or (B) in the case of a purchase at the end of either Renewal Term, the fair market sales value thereof determined as provided below. The fair market sales value of the Equipment shall be determined in accordance with the procedures set forth in Sections 2.4 and 2.6. On or prior to the earlier of the day which is (i) 180 days before the end of the Basic Sublease Term or of either Renewal Term, as the case may be, and whether or not the fair market sales value of the Equipment has been determined as provided in Section 2.6, or (ii) 45 days after determination of the fair market sales value of the Equipment as provided in Section 2.6, the Lessee may deliver to the Lessor a further written notice finally electing to purchase the Equipment in accordance with its previous tentative election, and such election shall be irrevocable. At the end of the Basic Sublease Term or the applicable Renewal Term, as the case may be, if the Lessee has elected to purchase the Equipment as aforesaid and no Sublease Default or Sublease Event of Default hereunder has occurred and is continuing, the Lessor shall Transfer the Equipment to the Lessee against payment by the Lessee of the purchase price in same day funds and the Lessor shall execute and deliver such documents evidencing such sale and Transfer as the Lessee shall reasonably request, but, in any event, by Bill of Sale providing that the Equipment is transferred and conveyed "AS IS, WHERE IS". THE LESSOR HAS NOT MADE AND SHALL NOT MAKE ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR SUITABILITY OF THE EQUIPMENT, AND SHALL TRANSFER ALL OF ITS RIGHT, TITLE AND INTEREST IN SUCH ITEMS OF EQUIPMENT TO THE LESSEE "AS IS, WHERE IS", WITHOUT WARRANTY, EXPRESS OR IMPLIED, except that the Lessor will warrant to the Lessee that the Equipment is free and clear of Lessor Liens attributable to it.

2.4. Fair Market Sales Value. For purposes of this Article 2 and Sections 10.1(b) and 13(d), the "fair market sales value" of the Equipment, or any item, as of any date shall be the cash price that would be obtained in an arm's-length transaction between an informed and willing buyer (including a lessee currently in possession but not including a used equipment dealer or buyer of scrap) under no compulsion to buy, and an informed and willing seller under no compulsion to sell. Fair market sales value shall not include the cost of removal or delivery of the Equipment. In determining fair market sales value, it shall be assumed that the Lessee has complied with all of the terms, provisions and conditions of this Lease and that the Equipment is

in the condition and configuration required upon return to the Lessor.

2.5. Renewal Options; Fair Market Rental Value.

(a) At the end of the Basic Sublease Term the Lessee may renew the Lease of all (but not less than all) of the Equipment then subject to this Lease for a renewal term (the "first Renewal Term") of three years. At the end of the first Renewal Term the Lessee may renew the Lease of all (but not less than all) of the Equipment then subject to the Lease for a renewal term (the "second Renewal Term") of seven years. The rent for the first Renewal Term shall be equal to the lesser of (i) 50% of the average Basic Sublease Rent over the Basic Sublease Term or (ii) the fair market rental value of the Equipment. The rent for the second Renewal Term shall be equal to the fair market rental value of the Equipment. The first Renewal Term shall commence upon the expiration of the Basic Sublease Term, and the second Renewal Term shall commence on the day after the expiration of the first Renewal Term. Not fewer than 270 days prior to the end of the Basic Sublease Term or the first Renewal Term, as the case may be, the Lessee may deliver to the Lessor a written notice of the Lessee's tentative interest to renew the Lease. The fair market rental value of the Renewal Equipment shall be determined in accordance with the procedures set forth in Section 2.6. On or prior to the earlier of the day which is (a) 180 days before the end of the Basic Sublease Term or the first Renewal Term, as the case may be, and whether or not the fair market rental value of the Equipment has been determined as provided in Section 2.6 or (b) 45 days after determination of the fair market rental value of the Equipment as provided in Section 2.6, the Lessee may deliver to the Lessor a further written notice finally electing to lease the Equipment in accordance with its previous tentative election, and such election shall be irrevocable. At the end of the Basic Sublease Term or the first Renewal Term, as the case may be, if (i) the Lessee has finally elected to lease the Equipment as aforesaid, (ii) no Sublease Default or Sublease Event of Default hereunder shall have occurred and be continuing (unless the Lessor, in its sole discretion, shall have waived this condition), (iii) a new contract for financial assistance with respect to Renewal Rent substantially in the form of the Contract for Financial Assistance shall, in the opinion of counsel for the Lessee, have been duly authorized, executed and delivered by the Commonwealth and the Lessee and shall be in full force and effect, and an executed counterpart thereof shall have been delivered to the Lessor, (iv) an assignment by the Lessee of such new contract for financial assistance and of the Lessee's rights to receive the payment of money under the Contract Assistance Provisions substantially in the form of the Sublessee's Assignment shall

have been duly authorized, executed and delivered by the Lessee and shall be in full force and effect, and an executed counterpart thereof shall have been delivered to the Lessor, and (v) counsel for the Lessee reasonably satisfactory to the Lessor shall have delivered to the Lessor an opinion to the effect that after giving effect to the renewal and after taking into account the effect of the protections afforded to the Participants by the Contract Clause of the United States Constitution, the credit support of the Commonwealth in respect of the Lessee as provided by the Contract for Financial Assistance and the Contract Assistance Provisions remains substantially in full force and effect, then this Lease shall be renewed for a Renewal Term with respect to the Equipment. The Lessee shall pay Renewal Rent with respect to the first Renewal Term in six consecutive semiannual installments in arrears on each Rent Payment Date during the first Renewal Term, commencing June 30, 2013 in the case of the first Renewal Term, and shall pay Renewal Rent with respect to the second Renewal Term in fourteen consecutive semi-annual installments in arrears on each Rent Payment Date during the second Renewal Term, commencing June 30, 2016 in the case of the second Renewal Term.

(b) The appraiser(s) shall pursuant to Section 2.6 determine the fair market rental value of the Equipment on the basis of arm's-length negotiations between an informed and willing lessor and an informed and willing lessee under no compulsion to lease equipment comparable to that being appraised and not subject to this Lease and upon the assumption that such comparable equipment is in the condition and configuration in which the Equipment is required to be upon return to the Lessor under this Lease and is located at the then present location of the Equipment ready for delivery. In determining the fair market rental value of the Equipment, the appraiser(s) shall also take into account the fair market sales value of the Equipment, the number of years of its remaining useful life, the time value of money and such other factors (not including rental rates under this Lease) as the appraiser(s) may deem appropriate.

2.6. Appraisal Procedure. The fair market sales value of the items of Equipment in question or the fair market rental value of the Equipment in question, as the case may be, shall be mutually agreed upon by the parties to this Lease. Upon the determination by either party to this Lease that it and the other party to this Lease are unable to agree upon such fair market sales or rental value, such party (which party shall be the Lessee in the event the Lessor and the Lessee have been unable to agree on such fair market sales or rental value by the day which is 180 days before the end of the Basic Sublease Term or Renewal Term, as the case may be) shall deliver to the other party a written notice appointing a recognized independent appraiser to

determine such fair market sales or rental value. Within 30 days after receipt of such written notice from one party to this Lease, the other party hereto shall deliver to such party a written notice appointing a recognized independent appraiser selected by such other party to determine such fair market sales or rental value. The two appraisers so appointed shall meet promptly to determine such fair market sales or rental value of the Equipment (or in the event a party fails to appoint an appraiser within 30 days, such determinations shall be made promptly, and in any case within the next 20 days, by the appraiser appointed by such other party). If two appraisers are selected by the Lessor and the Lessee, and, within 30 days after the appointment of the second appraiser, the two appraisers shall be unable to agree upon such fair market sales or rental value, a third recognized independent appraiser shall be chosen within five days thereafter by the mutual consent of such first two appraisers or if such first two appraisers fail to agree upon the appointment of a third appraiser within such five day period, such appointment shall be made by the American Arbitration Association. The decision of the third appraiser so appointed and chosen shall be given within a period of 30 days after the selection of such third appraiser. Any decision in which the first two appraisers so appointed and acting hereunder concur (or, in the event that a second appraiser is not appointed as provided in this Section 2.6, the decision of the first appraiser appointed pursuant to this Section 2.6) shall in all cases be binding and conclusive upon the Lessor and the Lessee and, in the event that a third appraiser is appointed as aforesaid, the appraisal of such third appraiser shall in all cases be binding and conclusive on the Lessor and the Lessee. In any appraisal pursuant to Sections 2.3, 2.5 and 10.1(b), the Lessor and the Lessee each shall pay the fees and expenses of the appraiser appointed by it and shall share equally the fees and expenses of the third appraiser, if any; provided, that if Lessee elects to purchase the Equipment or to renew this Lease for a Renewal Term and has sent written notice to that effect to the Lessor pursuant to Section 2.3 or Section 2.5, the fees and expenses of the appraiser appointed by the Lessor and the fees and expenses of a third appraiser, if any, shall be borne solely by the Lessee but only if the Lessee revokes its election to purchase the Equipment or renew this Lease. In any appraisal pursuant to Section 13(d), the fees and expenses of all appraisers appointed hereunder shall be paid solely by the Lessee.

2.7. Early Termination Option. Not later than June 30, 2005, the Lessee may deliver to the Lessor a written notice electing to terminate this Lease as to all (but not less than all) of the Equipment then subject to this Lease effective on June 30, 2006. In the event the Lessee has not elected to terminate this Lease pursuant to the immediately preceding

sentence on or before June 30, 2005, thereafter but not later than September 30, 2005, the Lessor may deliver to the Lessee a written notice electing to terminate this Lease as to all (but not less than all) of the Equipment then subject to this Lease effective on June 30, 2006. In the event that either the Lessee or the Lessor elects so to terminate this Lease pursuant to this Section 2.7, the Basic Sublease Term shall end on June 30, 2006, and on such date the Lessee shall return the Equipment to the Lessor as provided in Section 2.2 and pay the installment of Basic Sublease Rent (identified as No. 37 in Schedule 1 attached hereto) due on June 30, 2006 and, if the Lessee shall have so elected to terminate this Lease, an amount equal to the sum of (i) 22% of Lessor's Purchase Price of the items of Equipment then subject to this Lease, such amount reflecting the deferral of rents as compared with rents paid in level installments, and (ii) 34% of Lessor's Purchase Price of the items of Equipment then subject to this Lease, such amount reflecting a portion of the rents remaining due hereunder. Upon such return and such payment, the obligation of the Lessee to pay the installment of Basic Sublease Rent identified as No. 38 in Schedule 1 attached hereto and installments of Basic Sublease Rent which would otherwise become due and payable after, but not on or before, June 30, 2006 shall terminate.

ARTICLE 3

DISCLAIMER OF WARRANTIES

THE LESSOR LEASES THE EQUIPMENT HEREUNDER "AS IS" AND NONE OF THE LESSOR, THE INDENTURE TRUSTEE, ANY PARTICIPANT, THE GERMAN LESSOR OR THE PURCHASER HAS MADE OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR SUITABILITY OF ANY ITEM OF EQUIPMENT, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATION BASED ON STRICT LIABILITY IN TORT, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR ITS COMPLIANCE WITH APPLICABLE GOVERNMENTAL REQUIREMENTS OR REGULATIONS OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ITEM OF EQUIPMENT, except that the Lessor warrants and represents that on the Effective Date each item of Equipment shall be free of Lessor Liens.

THE LESSEE HEREBY WAIVES TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW AS AGAINST ANY PARTICIPANT, THE LESSOR, THE GERMAN LESSOR AND THE PURCHASER ALL RIGHTS IN RESPECT OF WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE WITH RESPECT TO ANY ITEM OF EQUIPMENT LEASED UNDER THIS LEASE AND ALL CLAIMS

AGAINST ANY PARTICIPANT, THE LESSOR, THE GERMAN LESSOR OR THE PURCHASER ARISING OUT OF OR IN CONNECTION WITH THE CONDITION, DESIGN, OPERATION, SPECIFICATION OR PERFORMANCE OF ANY ITEM OF EQUIPMENT INCLUDING, BUT NOT LIMITED TO, (1) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS THEREOF FOR A PARTICULAR PURPOSE OR USE OR SUITABILITY, (2) ANY IMPLIED WARRANTY THEREOF ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, (3) ANY OBLIGATION, DUTY, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT WHETHER OR NOT FOUNDED IN STRICT LIABILITY IN TORT AND (4) FOR ANY OTHER DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES except as otherwise provided in the Agreement to Purchase and Lease.

None of the provisions of this Article 3 or any other provision of this Lease shall be deemed to amend, modify or otherwise affect the representations, warranties or other obligations (express or implied) of the Manufacturer or any subcontractor or supplier of the Manufacturer, with respect to any item of Equipment or to release the Manufacturer or any such subcontractor or supplier from any such representation, warranty or obligation.

ARTICLE 4

POSSESSION OF EQUIPMENT; FURTHER ASSURANCES

4.1. Insignia; Further Assurances.

(a) Promptly after the Effective Date, the Lessee shall fasten or cause to be fastened and maintained in a clearly visible location, on each item of Equipment, metal nameplates identifying the interests of the Lessor, and, unless and until a German Lessor Disposition shall have occurred, the German Lessor in and to such Equipment as follows:

THIS COACH IS LEASED FROM
SECURITY PACIFIC EQUIPMENT LEASING, INC.,
AS SUBLESSOR,
AND FROM
DB EXPORT-LEASING GmbH,
AS LESSOR,
AND IS SUBJECT TO A SECURITY
INTEREST IN FAVOR OF
DEUTSCHE CREDIT CORPORATION,
AS SECURED PARTY

The Lessee will not allow the name of any Person other than the Lessor, the German Lessor and the Purchaser to be placed on any item of Equipment leased hereunder as a designation that might be interpreted as a Lien thereon or as a claim of

ownership; provided, that the Lessee may cause the Equipment leased hereunder to be lettered and otherwise marked in an appropriate manner for convenience of identification of the interest therein of the Lessee or of any sublessee permitted under Section 4.2.

The Lessee will not change the road number of any item of Equipment unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor, the German Lessor and the Purchaser and filed, recorded and deposited by the Lessee in all public offices in the United States where this Lease shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished to the Lessor, the German Lessor and the Purchaser an opinion of counsel satisfactory to the Lessor, the German Lessor and the Purchaser to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Lessor's, the German Lessor's and the Purchaser's interest in such item and no filing, recording, deposit or giving notice with or to any other United States Federal, state or local government or agency thereof is necessary to protect the interests of the Lessor, the German Lessor and the Purchaser in such item.

(b) The Lessee will promptly and duly execute and deliver such further documents and assurances and take such further action as the Lessor, the German Lessor or the Purchaser may from time to time during the term of this Lease reasonably request or as may be necessary or appropriate in order more effectively to carry out the intent and purpose of this Lease, the Collateral Assignment and the Accounts Receivable Purchase Agreement and to establish and protect the rights and remedies created or intended to be created in favor of the Lessor, the German Lessor or the Purchaser including, without limitation, at the expense of the Lessee, the execution and delivery of supplements or amendments hereto and thereto, in recordable form, subjecting any replacement or substituted Equipment to this Lease and the recording or filing of counterparts hereof, or of financing or continuation statements with respect hereto, in accordance with the laws of such jurisdictions as the Lessor may reasonably deem advisable. Notwithstanding the foregoing, nothing herein shall be construed to require the Lessee to furnish any opinion of counsel with respect to the applicability or effect of any provision of German law.

(c) The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of Equipment) with all laws of the jurisdictions in which its operations involving the items of Equipment may extend, with the Interchange Rules of the Association of American Railroads and

with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of Equipment, to the extent that such laws and rules are applicable to Lessee and affect the title, operation or use of the items of Equipment or are necessary to comply with health, safety or environmental standards of any government or governmental authority having relevant jurisdiction (which for purposes of the foregoing, shall include an industry-wide health, safety, or environmental standard recognized by a government or governmental authority), and in the event that such laws or rules require any alteration, replacement or addition of or to any part of any item of Equipment, the Lessee will conform therewith at its own expense; provided, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner if in the reasonable opinion of the Lessor, such contest will not adversely affect the property or rights of the Lessor, the German Lessor or the Purchaser under this Lease.

4.2. Possession; Sublease. The Lessee may sublease all or any portion of the Equipment and thereby transfer or relinquish possession of any item of Equipment, provided, that (i) no Sublease Event of Default shall have occurred and be continuing, (ii) the sublease and any transfer of the Equipment pursuant thereto shall not adversely affect the interest of the German Lessor or the Lien of the Collateral Assignment or of the Accounts Receivable Purchase Agreement, and (iii) the sublease and any transfer pursuant thereto of the Equipment do not in the reasonable opinion of the Lessor, the German Lessor and the Purchaser impair the Contract Assistance Provisions or the Contract for Financial Assistance. The Lessee may also, without the prior written consent of the Lessor: transfer possession of any item of Equipment for delivery thereof to the manufacturer thereof for testing or other similar purposes or to any organization for service, repair, maintenance or overhaul work on such item of Equipment, or any Part thereof, or for alterations or modification in or additions to such item of Equipment to the extent required or permitted by the terms of Article 6; provided, that: (1) the rights of any transferee who receives possession by reason of a transfer permitted by this Section 4.2 shall be subject and subordinate to, and any sublease permitted by this Section 4.2 shall be made expressly subject and subordinate to, all the terms of this Lease, the Headlease, the Collateral Assignment and the Accounts Receivable Purchase Agreement including surrender of possession of each item of Equipment upon a termination of this Lease and the right to repossession pursuant to Article 13 and the avoidance of such sublease upon such repossession, (2) the Lessee shall remain primarily liable hereunder for the performance of and compliance with all of the

terms and provisions of this Lease to the same extent as if such sublease or transfer had not occurred and (3) without limiting the effect of the preceding clause (2), any such sublease shall include appropriate provisions (whether by requiring such obligations to be performed by the sublessee, the Lessee, or both) for the operation, location, maintenance, insurance and return of any item of Equipment subleased thereby in accordance with the terms hereof.

4.3. Reports by Lessor. The Lessee will prepare and deliver to the Lessor or to German Lessor, as the case may be, within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor or the German Lessor, as the case may be), any and all reports (other than income tax returns) to be filed by the Lessor or the German Lessor with any U.S. Federal, state or other U.S. regulatory authority by reason of the Lessor's or the German Lessor's interest in the items of Equipment or the leasing thereof by the German Lessor to the Lessor and by the Lessor to the Lessee and will furnish copies of all such reports delivered to the Lessor or the German Lessor to, respectively, the German Lessor or the Lessor.

4.4. Subordination to Headlease. This Lease is expressly subject and subordinate to the Headlease and, upon termination of the Headlease for any reason whatsoever, this Lease shall terminate and the Lessee shall surrender possession of the Equipment in accordance with Section 2.2 hereof unless concurrently with such termination the Equipment is transferred to the Lessor, provided, that if no Sublease Event of Default shall have occurred and be continuing, this Lease will not terminate and the Lessee shall accept the German Lessor as the "Lessor" hereunder and shall perform its obligations hereunder to the German Lessor.

ARTICLE 5

MAINTENANCE AND OPERATION OF EQUIPMENT; REPLACEMENT OF PARTS

5.1. Maintenance. During the Sublease Term and the storage period referred to in Section 2.2(d), the Lessee, at its sole cost and expense, shall maintain, inspect, service, repair, overhaul and test, or cause the same to be done to, each item of Equipment so as to keep such item of Equipment in good operating condition, ordinary wear and tear from the careful and proper use thereof excepted, and in conformity with the operating, running, maintenance and heavy repair manuals, instructions and service bulletins furnished by the Manufacturer or by any subcontractor

or supplier of the Manufacturer and in accordance with the Lessee's standard practices for similar equipment (including, without limitation, the Lessee's maintenance program for the Equipment, as from time to time in effect). The Lessee shall maintain all records, logs and other materials required by all governmental authorities to be maintained in respect of the Equipment and shall promptly furnish to the Lessor upon the Lessor's request such information as may be required to enable the Lessor to file any reports required to be filed with any governmental authority as a result of the Lessor's interest in the Equipment.

5.2. Operations.

(a) The Lessee shall not permit any item of Equipment to be maintained, serviced, repaired, overhauled, tested, used or operated in violation of any law or any rule, regulation or order of any governmental authority having jurisdiction, or in violation of any license or regulation relating to any item of Equipment issued by any such authority; provided, that the Lessee may in good faith (after having delivered to the Lessor, the German Lessor or the Purchaser an Officer's Certificate stating the facts with respect thereto) contest the validity thereof in any reasonable manner which does not adversely affect the Lessor, the German Lessor or the Purchaser and which is consistent with and does not impair the continuance in full force and effect of any insurance required to be maintained pursuant to Article 9. In the event that any such law, rule, regulation or order requires alteration of any item of Equipment, the Lessee will conform thereto or obtain conformance therewith at no expense to the Lessor and will maintain such item of Equipment in proper operating condition under such laws, rules, regulations and orders; provided, that the Lessee may in good faith (after having delivered to the Lessor, the German Lessor and the Purchaser an Officer's Certificate stating the facts with respect thereto) contest the validity thereof in any reasonable manner which does not adversely affect the Lessor, the German Lessor or the Purchaser and which is consistent with any insurance required to be maintained pursuant to Article 9.

The Lessee agrees that (i) it will not operate or locate any item of Equipment, or suffer any item of Equipment to be operated or located, in any area or on any route or in any manner excluded from coverage by any insurance required by the terms of Article 9 and (ii) it will not operate the Equipment if any Sublease Event of Default under Article 12(d) shall have occurred and be continuing. The Lessee will notify the Lessor, the German Lessor and the Purchaser in the event that it or any sublessee permitted by Section 4.2 operates or locates any item of the Equipment outside of the Commonwealth within 10 Business Days thereof.

(b) The Lessor agrees to take such reasonable actions as may be appropriate to comply at the Lessee's request and expense with all laws, rules and regulations applicable to the Lessor and necessary to maintain the operation of the Equipment to the extent that such actions cannot be taken by the Lessee on behalf of the Lessor.

5.3. Replacement of Parts. The Lessee, at its sole cost and expense, will promptly replace all Parts which may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use for any reason whatsoever. In addition, the Lessee may, at its sole cost and expense, remove in the ordinary course of maintenance, service, repair, overhaul or testing, any Parts, whether or not worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use, provided, that the Lessee will, at its sole cost and expense, replace such Parts as promptly as possible. All replacement Parts immediately prior to installation on the Equipment shall be free and clear of all Liens (except for Permitted Liens) and shall be in as good operating condition as, and shall have a value and utility at least equal to, the Parts replaced, assuming such replaced Parts were in the condition and repair required to be maintained by the terms hereof; provided, that the Lessee shall have the right to install temporary replacement Parts pending completion of permanent repairs or installation of permanent replacement Parts, in which event the Lessee shall install permanent replacement Parts to meet such requirements as soon as reasonably possible and in any event prior to the termination of the Sublease Term. Subject to Article 6, all Parts at any time removed from any item of Equipment shall remain the property of the Lessor and subject to this Lease, no matter where located, until such time as such Parts shall be replaced by Parts which have been incorporated or installed in or attached to the item of Equipment from which such replaced Parts were removed and which meet the requirements for replacement Parts specified above. Immediately upon any replacement Part becoming incorporated or installed in or attached to such item of Equipment as above provided, without further act, (a) title to such replacement Part shall thereupon vest in the Lessor, (b) such replacement Part shall become subject to this Lease and be deemed part of such item of Equipment for all purposes hereof to the same extent as the Part originally incorporated or installed in or attached to such item of Equipment and (c) title to the replaced Part shall thereupon vest in the Lessee, free and clear of all rights of the Lessor, and shall no longer be deemed a "Part" hereunder. The Lessee, at no cost or expense to the Lessor, will take such action as may be necessary or appropriate to create, maintain or preserve the Lien

of the Accounts Receivable Purchase Agreement with respect to such replacement Parts.

ARTICLE 6

ALTERATIONS, MODIFICATIONS AND ADDITIONS

The Lessee, at its sole cost and own expense, will make such alterations and modifications in and additions to the Equipment as may be required from time to time (regardless upon whom such requirements are by their terms nominally imposed) to meet all requirements of Applicable Law; provided, that Lessee may in good faith (after having delivered to the Lessor, the German Lessor and the Purchaser an Officer's Certificate stating the facts with respect thereto) contest the validity of such requirements in any reasonable manner which does not adversely affect the Lessor, the German Lessor or the Purchaser and which is consistent with and does not impair the continuance in full force and effect of any insurance required to be maintained pursuant to Article 9. In addition, the Lessee, at its own expense, may from time to time make such alterations and modifications in and additions to any item of Equipment as the Lessee may deem desirable in the proper conduct of its business, including removal of Parts (herein called "Obsolete Parts") which the Lessee deems obsolete or no longer appropriate or suitable for use in the Equipment; provided (a) that no such alteration, modification, removal or addition changes the basic use or function of the Equipment or diminishes the value, utility or condition of such item of Equipment below the value, utility and condition thereof immediately prior to such alteration, modification, removal or addition if such item of Equipment were then in the condition required to be maintained by the terms of this Lease and (b) that each such alteration, modification, removal and addition is done in compliance with the advance ruling guidelines of the Internal Revenue Service as set forth in Revenue Procedures 75-21 and 79-48. Except as otherwise set forth in the next succeeding sentence, title to all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature (the "Additions") incorporated or installed in or attached to or added to such item of Equipment as the result of such alteration, modification or addition shall, without further act, vest in the Lessee if the Additions can be readily removed from such item of Equipment without diminishing or impairing the value, utility or condition which such item of Equipment would have had at such time had the alteration, modification, or addition not occurred. Title to (i) all Additions which cannot be so removed, (ii) replacement Parts referred to in Section 5.3, (iii) any and all parts installed on and additions and replacements made to any item of Equipment which are required for the operation or use of such item of

Equipment by the Interchange Rules of the Association of American Railroads (if applicable) or by the applicable regulations of the Department of Transportation, the Interstate Commerce Commission or any other applicable regulatory body, and (iv) Additions intended to enhance the performance or operation of any item of Equipment shall, without further act, vest in the Lessor and become subject to this Lease, provided, that so long as no Sublease Default or Sublease Event of Default shall have occurred and be continuing, the Lessee may, at any time during the Sublease Term, remove any Addition from such item of Equipment, provided that (a) such Addition is in addition to, and not in replacement of or substitution for, any such item of Equipment, (b) such Addition is not required to be incorporated or installed in or attached or added to such item of Equipment pursuant to the terms of Section 5.1 or Section 5.3 or the first sentence of this Article 6, and (c) such Addition can be readily removed from such item of Equipment without diminishing or impairing the value, utility or condition which such item of Equipment would have had at such time had such alteration, modification, or addition not occurred. Upon the removal by the Lessee of any Addition as above provided, title thereto shall, without further act, vest in the Lessee and such Addition shall no longer be deemed a "Part" hereunder. Any Addition not removed by the Lessee as above provided prior to the return of such item of Equipment to the Lessor hereunder shall remain the property of the Lessor.

The Lessor shall not bear any liability or cost for any alteration, modification or addition to any item of Equipment.

ARTICLE 7

LIENS

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to any item of Equipment, title thereto or any interest therein or in this Lease or the Sublease Rent or any other payments provided for hereunder except Permitted Liens. The Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any Lien not excepted above if the same shall arise at any time.

The Lessor agrees that it will not (except as contemplated by this Lease or Section 13 of the Agreement to Purchase and Lease), sell, transfer or otherwise dispose of any item of Equipment or interest therein; provided, that the Lessor may enter into an agreement, subject to the Lessee's rights under Article 2, to sell or lease any item of Equipment, such sale to

take place or lease to commence after the end of the Sublease Term with respect to such item of Equipment.

ARTICLE 8

SUBLEASE RENT; LESSEE COVENANTS

8.1. Interim Term and Basic Sublease Term.

(a)(1) The Lessor acknowledges receipt on January 30, 1988 of all Interim Rent payable in respect of the Interim Term.

(a)(2) The Lessee shall pay Basic Sublease Rent with respect to the Basic Sublease Term in 50 installments on the respective Rent Payment Dates during the Basic Sublease Term as specified in Schedule 1. Subject to adjustment as provided in this Section 8.1 and Section 8.6 hereof and Section 11(b) of the Agreement to Purchase and Lease and in the Tax Indemnity Agreement, each installment shall be in a minimum amount equal to the applicable percentage of the Lessor's Purchase Price as set forth in Schedule 1 for those items of Equipment that are subject to this Lease on such Rent Payment Date.

The percentages set forth in Schedule 1 and in Exhibit B assume that Lessor's Cost will be equal to 103% of Lessor's Purchase Price, resulting in the Net Economic Return. If the Lessor shall pay (or shall become obligated to pay or cause to be paid) an amount in excess of or less than 3.0% of Lessor's Purchase Price as payment of Transaction Costs (any amount in excess of 3.0% paid or so to be paid by the Lessor described in this clause is referred to herein as an "Additional Investment"; any amount less than 3.0% paid or so to be paid by the Lessor described in this clause is referred to herein as a "Reduced Investment"), then in such case (but subject to Section 8.2) the percentages relating to Sublease Stipulated Loss Value and Basic Sublease Rent will be appropriately adjusted on December 30, 1988 (and from time to time thereafter, if necessary) by such amount or amounts as shall be necessary to preserve the Lessor's Net Economic Return. If the Lessor shall make an Additional Investment or Reduced Investment as described above, the Lessor shall (a) notify the Lessee in writing of the occurrence of such event, (b) provide the Lessee with revised percentages to be set forth in Schedule 1 and in Exhibit B, (c) confirm in writing to the Lessee (certified by an officer of the Lessor) that the same assumptions and methods of computation employed in the original calculations of Sublease Stipulated Loss Value and Basic Sublease Rent were used in computing such revised percentages and (d) describe in reasonable detail and in writing the calculations and

bases of computing such revised percentages. Promptly upon such confirmation, the Lessor and the Lessee shall enter into a supplement to this Lease providing for an adjustment in the percentages set forth in Schedule 1 and in Exhibit B pursuant to this Section 8.1. In the event the Lessee believes that such revised percentages were not correctly computed by or on behalf of the Lessor (including, without limitation, the belief that the assumptions and methods used in calculating such revised percentages are not the same as those employed in the original calculations of Sublease Stipulated Loss Value, Interim Rent, and Basic Sublease Rent), any conflict between the Lessor and the Lessee shall be resolved by an independent accounting firm of recognized national standing selected by the Lessor. The fees and expenses of such procedure shall be paid as follows: (1) if the computations provided by such accounting firm are different from the Lessor's computations and if the difference is in favor of the Lessee computed on a present value basis (discounted at 10%, compounded semi-annually), such fees and expenses shall be borne by the Lessor if such difference in favor of the Lessee equals or exceeds 2% of the present value (so computed) of the computations provided by or on behalf of the Lessor, or (ii) otherwise by the Lessee.

(b) All amounts received by the Lessor pursuant to Section 3(d)(iv) of the Purchase Agreement Assignment shall be applied by the Lessor as follows: (i) the Lessor's Portion shall be retained by the Lessor and (ii) all amounts in excess of the Lessor's Portion shall be promptly paid to the Lessee. For purposes of this Section 8.1(b) the "Lessor's Portion" shall be an amount determined by multiplying the aggregate of all amounts received by the Lessor pursuant to Section 3(d)(iv) of the Purchase Agreement Assignment by a fraction the numerator of which is the difference between (i) the useful life of the Equipment as set forth in the Appraisal and (ii) 28 years, and the denominator of which is the useful life of the Equipment.

8.2. Payment of Sublease Rent and Sublease Stipulated Loss Value. Anything contained in this Lease or the Tax Indemnity Agreement to the contrary notwithstanding but subject to the provisions of the Accounts Receivable Purchase Agreement No. 2, (x) each payment of Basic Sublease Rent payable on each Rent Payment Date shall in no event be less than the amount of Basic Headlease Rent due and payable under the Headlease on such Rent Payment Date, and (y) each payment of Sublease Stipulated Loss Value pursuant to Article 10 shall in no event be less than the Headlease Stipulated Loss Value due and payable on the date of payment thereof (after giving effect to the payment of any installment of Basic Sublease Rent paid on such date). The Lessee shall pay all Sublease Rent hereunder to the extent permitted by law free and clear of, and without deduction or

withholding for or on account of, any Taxes other than Excluded German Taxes. If any Taxes other than Excluded German Taxes are required by law to be deducted or withheld from any payment of Sublease Rent, the Lessee shall increase the amount paid so that the Lessor receives when due, after such deduction or withholding, the full amount of such Sublease Rent payable hereunder.

8.3. Supplemental Sublease Rent; Interest on Overdue Sublease Rent. In addition to its obligation to pay Basic Sublease Rent and, if renewed, Renewal Rent hereunder, the Lessee shall pay to the Lessor and/or to whoever shall be entitled thereto any and all Supplemental Sublease Rent as and when the same shall become due and owing, and, in the event of any failure on the part of the Lessee to pay any Supplemental Sublease Rent when the same shall become due and owing, the Lessor shall have all rights, powers and remedies provided for herein or at law or in equity or otherwise in the case of nonpayment of Basic Sublease Rent or, if renewed, Renewal Rent. The Lessee also agrees to pay to the Lessor, upon demand, as Supplemental Sublease Rent, to the extent permitted by Applicable Law, interest at the Overdue Interest Rate on (i) any part of any installment of Basic Sublease Rent and, if renewed, Renewal Rent not paid when due for each day for which the same shall be overdue, and (ii) any payment of Supplemental Sublease Rent (other than such interest) not paid when due for each day for which the same shall be overdue. The expiration or other termination of the Lessee's obligation to pay Basic Sublease Rent or, if renewed, Renewal Rent hereunder shall not limit or modify the obligations of the Lessee with respect to Supplemental Sublease Rent. All payments of Supplemental Sublease Rent that are required by any provision of the Operative Documents to be paid on an After-tax Basis shall have been calculated and shall be paid on an After-tax Basis.

8.4. Place of Payment of Sublease Rent; No Setoff, Counterclaim, Etc. So long as the Equipment is leased to the Lessor pursuant to the Headlease, and notwithstanding any provision hereof to the contrary, all Sublease Rent, except payments required by Sections 10.2 or 10.3 of the Agreement to Purchase and Lease, payments required by the VAT Agreement and the Tax Indemnity Agreement and as contemplated in the Accounts Receivable Purchase Agreement No. 2, payable (and all amounts payable pursuant to the penultimate sentence of this Section 8.4) shall be paid by the Lessee to the Purchaser in the manner and otherwise in accordance with the instructions set forth in Schedule 2 to the Agreement to Purchase and Lease. Such payments shall discharge the obligations of the Lessee to the Lessor hereunder to the extent of such payments. Each such payment to the Purchaser shall be accompanied by notice by the Lessee as to

the provisions of the Lease pursuant to which such payment is being made. All Sublease Rent payable after receipt by the Lessee of written notice from the German Lessor stating that a German Lessor Disposition has occurred shall be paid by the Lessee to the Lessor at such account as shall theretofore have been specified by the Lessor in a notice delivered to the Lessee. Each Sublease Rent payment shall be made by the Lessee in immediately available funds prior to 11:00 a.m. (New York time) on the day when such payment is due.

The Lessee's agreement to pay all Sublease Rent shall be absolute and unconditional under any and all circumstances and shall not be affected by any circumstances of any character, including, without limitation, (i) any change, waiver, extension, indulgence or other action or omission in respect of any obligation or liability of the Lessor hereunder unless effected in compliance with the terms hereof and of the Collateral Assignment or the Accounts Receivable Purchase Agreement, (ii) any setoff, counterclaim, recoupment, defense or other right which the Lessee may have against the Lessor, the German Lessor, the Purchaser, any Participant, the Manufacturer or any other Person for any reason whatsoever, (iii) any defect in the title, condition, design, operation or fitness for use or particular purpose of the Equipment, (iv) any loss or destruction of, or damage to, the Equipment or interruption or cessation in the use or possession thereof by the Lessee for any reason whatsoever and of whatever duration, (v) any requisition, restriction, prevention or curtailment of or interference with any use of the Equipment or any Part thereof, (vi) any insolvency, bankruptcy, reorganization or similar proceeding by or against the Lessee, the Lessor, the German Lessor and the Purchaser, (vii) any failure to obtain any required governmental consent for a transfer of rights or title to the Lessee or any other Person pursuant to Section 2.3 or Article 10 or otherwise, (viii) the invalidity or unenforceability of this Lease or any other infirmity herein or any lack of power or authority of the Lessor or the Lessee to enter into this Lease, (ix) any deprivation of the Lessee (by the Lessor or any other Person) of the peaceful and quiet occupation and enjoyment of any or all of the Equipment or any items or Part thereof, (x) any indemnity payment made by the Lessee, (xi) any breach or alleged breach by the Lessor of any representation, warranty or covenant made in connection with the transactions contemplated hereby or (xii) any other circumstances or happening whatsoever, whether or not similar to any of the foregoing. Each Sublease Rent payment (and each payment pursuant to the immediately succeeding sentence of this Section 8.4) made by the Lessee shall be final, and the Lessee will not seek or have any right to recover all or any part of such payment from the Lessor, the German Lessor or the Purchaser for any reason whatsoever. If for any reason whatsoever this

Lease shall be terminated in whole or in part by operation of law or otherwise except as expressly provided herein, the Lessee shall nonetheless pay to the Lessor an amount equal to each payment of Basic Sublease Rent hereunder at the time and in the manner that such payment would have become due and payable hereunder if the Lease had not been terminated in whole or in part until all payments of Basic Sublease Rent required by the terms of this Lease have been made. Nothing contained in this Section 8.4 shall be construed to be a waiver, modification, alteration or release of any claim which the Lessee may have at any time for damages or equitable relief against the Lessor, the Manufacturer or any other Person.

8.5. [Intentionally Not Used]

8.6. Sublease Rent Adjustment. Anything herein to the contrary notwithstanding but subject to the provisions of Accounts Receivable Purchase Agreement No. 2, if Basic Sublease Rent, as adjusted, payable on any Rent Payment Date would be less than the Basic Headlease Rent payable under the Headlease on such Rent Payment Date, Basic Sublease Rent payable on such day will be increased to an amount at least equal to the amount of Basic Headlease Rent so payable, and the Lessor and the Lessee will, to the extent possible, make appropriate adjustments in other installments of Basic Sublease Rent (without, however, reducing any installment due on any Rent Payment Date to an amount less than the Basic Headlease Rent payable on such Rent Payment Date), so as to provide to the Lessee and the Lessor the benefits they would have had (including the Lessor's Net Economic Return) if the provisions of Section 8.1 or Section 8.5, as appropriate, had been applied.

8.7. Covenants Regarding Contract Assistance. The Lessee shall, at all times until all the Equipment shall have been returned or purchased, all other obligations of the Lessee under this Lease and all other Operative Documents and Cross Border Documents (including, without limitation, the Headlease) satisfied, fully and promptly exercise all rights and pursue all claims and remedies which are available to the Lessee against the Commonwealth with respect to the payment by the Commonwealth of, or the reimbursement of the Lessee by the Commonwealth with respect to, Sublease Rent, including, without limitation, rights, remedies or claims from time to time possessed by the Lessee under the Contract for Financial Assistance and/or under Sections 12, 13 or 28 of Chapter 161A of the General Laws of the Commonwealth as now in force or as hereafter amended (such specific statutory provisions or other statutory provisions from time to time providing rights, claims or remedies in favor of the Lessee as against the Commonwealth with respect to Sublease Rent which are substantially equivalent thereto, collectively referred

to herein as the "Contract Assistance Provisions"). Without limitation to the foregoing, the Lessee agrees with the Lessor as follows:

(a) The Lessee shall in a timely fashion approve in its annual budget for each of its fiscal years an amount necessary to pay all Sublease Rent anticipated to be payable by the Lessee during such fiscal year;

(b) Promptly after becoming aware that the Sublease Rent payable hereunder in any fiscal year is or shall be greater than the Sublease Rent previously budgeted for such fiscal year, the Lessee shall prepare and approve a supplemental budget for such fiscal year covering the amount by which such aggregate actual amount of Sublease Rent exceeds such previously budgeted aggregate amount; and

(c) The Lessee will promptly submit to the Treasurer of the Commonwealth all reports, requests, certificates or other instruments required to obtain payment from the Commonwealth under the Contract Assistance Provisions and under the Contract for Financial Assistance.

If prior to any Rent Payment Date the Lessee has Actual Knowledge that it will be without funds sufficient to pay in full the Sublease Rent payment due on such Rent Payment Date, the Lessee shall immediately execute and deliver to the Treasurer of the Commonwealth a certification under Sections 12 or 13 of Chapter 161A of the General Laws of the Commonwealth calling for the payment by the Commonwealth to the Lessee of the net cost of service consisting of that portion of the Sublease Rent payment for which the Lessee lacks sufficient funds. If the Commonwealth does not promptly pay the amount so certified, the Lessee shall promptly and diligently proceed against the Commonwealth through the use of all appropriate judicial remedies to obtain payment of the amount so certified.

8.8. Additional Covenants.

(a) The Lessee will, promptly after having Actual Knowledge thereof, notify each of the Lessor, the German Lessor and the Purchaser of any litigation or administrative or arbitration proceedings affecting the Equipment or affecting the Lessee or any of its other assets, which, if adversely decided would, either individually or in the aggregate, have a material and adverse effect on the ability of Lessee to perform its obligations under any Operative Document or Cross Border Document.

(b) The Lessee will use the Equipment in a sound and safe manner using due care at all times to maintain and operate the Equipment in accordance with applicable safety standards.

(c) The Lessee will use the Equipment solely within the borders of the continental United States.

8.9. Business Days. If any Rent Payment Date or any other date on which any payment is required to be made under this Lease shall not be a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on such day, and no interest or Supplemental Sublease Rent shall accrue by reason of such deferral of payment.

ARTICLE 9

INSURANCE

9.1. Public Liability and Property Damage Insurance. The Lessee at its sole cost and expense, will maintain or cause to be maintained at all times during the Sublease Term and the storage period referred to in Section 2.2(d) public liability insurance including passenger legal liability, personal injury liability, contractual liability and property damage coverage. Such insurance shall be in such amounts and with such insurance companies as is consistent with prudent industry practice and acceptable to Lessor, and, in any event, subject to commercial availability; provided, that such insurance companies must have a Best rating of at least "B+" or, if not subject to Best rating, must be of financial strength comparable to that required for a Best "B+" rating; and provided, further, that the Lessor confirms that the insurance program outlined in the letter of Fred S. James Co. Inc. to the Lessor dated December 30, 1987 is in amounts and with such insurance companies as is acceptable to the Lessor. Such amounts of insurance shall not be less than such insurance coverage carried by and the related deductibles or retentions shall not be greater than deductibles or retentions of, similar commuter rail systems of comparable size. All such policies of insurance and all policies taken out in substitution or replacement of the required policies shall (i) name the Lessor, the German Lessor and the Purchaser as additional insureds, as their respective interests may appear, (ii) provide that no cancellation (including for nonpayment of premium) or material change of coverage be effective until at least 30 days after notice thereof has been mailed to the Lessor, the German Lessor and the Purchaser and any other named insureds and (iii) provide that no breach of warranty on the part of the Lessee or other action of the Lessee shall impair the rights of the Lessor,

the German Lessor or the Purchaser under such policies. If within the last five years of the Basic Sublease Term or any Renewal Term, insurance is obtained on a claims made basis, Lessee shall continue such coverage in force for three years following the expiration of the Sublease Term with the Lessor and (unless a German Lessor Disposition shall have occurred at least three years prior to such expiration) the German Lessor and the Purchaser remaining as additional insureds.

9.2. Insurance Against Loss or Damage to Equipment. The Lessee, without expense to the Lessor or other additional insureds, will maintain or cause to be maintained at all times during the Sublease Term and the storage period referred to in Section 2.2(d) all risk insurance covering loss or damage to the Equipment and Parts which is of such type, in such amounts (but in any event not less than \$75 million) and with such deductibles or retentions, so long as the Lessee's long-term unsecured tax exempt debt is rated Investment Grade, and is not less than such insurance coverage carried by similar commuter rail systems of comparable size, and with such insurance companies as usually carried by similar commuter rail systems of comparable size and acceptable to Lessor, and, in any event, subject to commercial availability; provided, that such insurance companies must have a Best rating of at least "B+" or, if not subject to Best rating, must be of financial strength comparable to that required for a Best "B+" rating and, provided further, that Lessor confirms that the insurance program outlined in the letter of Fred S. James Co., Inc. to Lessor dated December 30, 1987 is in amounts and with such insurance companies as is acceptable to Lessor. All policies carried in accordance with this Section 9.2 during the term of this Lease shall (a) name the Lessor, the German Lessor and the Purchaser as loss payees, as their interests may appear, (b) provide that no cancellation (including for nonpayment of premium) or material change of coverage be effective until at least 30 days after notice thereof has been mailed to the Lessor, the German Lessor and the Purchaser and any other loss payees and (c) provide that no breach of warranty by the Lessee or other action by the Lessee shall impair the rights of the Lessor, the German Lessor or the Purchaser.

9.3. Application of Insurance Proceeds for Event of Loss. As between the Lessor and the Lessee it is agreed that all insurance payments received as the result of the occurrence of an Event of Loss with respect to an item of Equipment will be applied as follows (but subject to Section 9.5):

(a) unless such items of Equipment are replaced pursuant to Section 10.1(b), so much of such payments as shall not exceed the amounts due under Section 10.1(a) shall be applied in reduction of the Lessee's obligation to pay

such amounts, if not already paid by the Lessee, or, if already paid by the Lessee, shall be applied to reimburse the Lessee for its payments of such amounts, and the balance, if any, of such payments remaining thereafter will be paid to the Lessee; and

(b) if such items of Equipment are replaced pursuant to Section 10.1(b), such payments shall be paid over to or retained by the Lessee, provided, that the Lessee shall have fully performed or, concurrently therewith, will fully perform the terms of Section 10.1(b).

9.4. Application of Insurance Proceeds for Other Than Event of Loss. As between the Lessor and the Lessee, the insurance proceeds of any property damage loss to any Equipment not constituting an Event of Loss will be applied in payment (or to reimburse the Lessee) for repairs or for replacement property in accordance with the terms of Article 5, and (subject to Section 9.5) any balance remaining after compliance with such Article with respect to such loss shall be paid to, or retained by, the Lessee.

9.5. Application During Existence of Sublease Event of Default. Any amount referred to in Sections 9.3(a), 9.3(b) or 9.4 which is payable to the Lessee shall not be paid to the Lessee or, if it has been previously paid to the Lessee, shall not be retained by the Lessee, if at the time of such payment a Sublease Event of Default or a Sublease Default shall have occurred and be continuing. In such event, all such amounts shall be paid to and held by the Lessor as security for the obligations of the Lessee to make payments under the Agreement to Purchase and Lease or to pay Sublease Rent hereunder or, at the Lessor's option, applied by the Lessor toward payment of any of such obligations of the Lessee at the time due hereunder or under the Agreement to Purchase and Lease as the Lessor may elect. At such time as there shall not be continuing any Sublease Default or Sublease Event of Default, all such amounts at the time held by the Lessor in excess of the amount, if any, which the Lessor shall have elected to apply as above provided shall be paid to the Lessee.

9.6. Certificates, Etc. The Lessee will during the Sublease Term and the storage period referred to in Section 2.2(d) furnish to the Lessor, the German Lessor and the Purchaser, evidence (including certified copies of policies if requested) of renewal or replacement of the insurance policies required pursuant to this Article 9 prior to the cancellation, lapse or expiration of such insurance policies and, on the renewal dates of the insurance policies carried by the Lessee pursuant to this Article 9, a certificate of Lessee's insurance

broker describing in reasonable detail the insurance carried by the Lessee to comply with this Article 9, the primary and excess insurance carriers and their respective percentage interests, and an Officer's Certificate from the Lessee stating that the insurance then carried and maintained on the Equipment complies with the terms hereof.

9.7. Additional Insurance. Nothing contained herein shall prevent the Lessee, the Lessor, the German Lessor or the Purchaser from carrying at its own expense additional insurance in excess of or in addition to that required hereunder; provided, that no such insurance may be obtained which would limit or otherwise adversely affect the coverage or payment of any insurance required to be maintained pursuant to this Article 9 or prevent the payment of a policy premium which, if not paid by the Lessee, would invalidate the required coverage.

ARTICLE 10

EVENT OF LOSS; DAMAGE

10.1. Event of Loss with Respect to Equipment. Upon the occurrence of an Event of Loss with respect to the Equipment, the Lessee shall give the Lessor, the German Lessor and the Purchaser prompt (and in any event within five days after such occurrence) written notice thereof and shall, within 30 days of such Event of Loss, elect by written notice to the Lessor, the German Lessor and the Purchaser either to make payment to the Lessor or to substitute equipment for the items of Equipment subject to such Event of Loss as provided, respectively, in paragraphs (a) and (b) below (failure by the Lessee to make such election within said 30 days being deemed to be an election of alternative (a)).

(a) If the Lessee shall elect to make payment to the Lessor, it shall, not later than the earlier of (x) the Sublease Stipulated Loss Value Date next following receipt of insurance proceeds in respect of such Event of Loss and (y) the Sublease Stipulated Loss Value Date next following the date which is 45 days following such Event of Loss, pay or cause to be paid to the Lessor the Sublease Stipulated Loss Value for the item of Equipment, computed as of the date of payment (provided, that (i) if the Sublease Stipulated Loss Value Date on which such payment occurs is also a Rent Payment Date or (ii) if the Event of Loss occurs prior to a Rent Payment Date, and the Sublease Stipulated Loss Value Date on which payment occurs is after that intervening Rent Payment Date, then in each case the Basic Sublease Rent payable on such Rent Payment Date and such Sublease Stipulated Loss Value Date shall be payable as if the Equipment in respect

of which the Sublease Stipulated Loss Value is payable had not been subject to an Event of Loss), it being understood that in the event the Lessee shall be required to pay, and shall pay, Sublease Stipulated Loss Value pursuant to Section 13(a), or liquidated damages pursuant to Sections 13(c) or 13(d) and any interest thereon, then, to the extent of such payment and giving proper effect to the timing of such payment, the Lessee's obligation to pay Sublease Stipulated Loss Value thereon pursuant to this Section 10.1(a) shall be reduced.

At such time as the Lessor and, unless and until a German Lessor Disposition shall have occurred, the German Lessor and the Purchaser shall have received the Sublease Stipulated Loss Value specified above, together with all other amounts then due and payable hereunder, including any rent payable on the Sublease Stipulated Loss Value Date, and under any other Operative Documents and Cross Border Documents, (A) the obligation of the Lessee to pay Basic Sublease Rent or Renewal Rent hereunder with respect to the Equipment subject to the Event of Loss which would otherwise become due and payable after, but not on or before, the Sublease Stipulated Loss Value Date next following the date of such Event of Loss, shall terminate, provided, that if a Rent Payment Date shall occur after the date of such Event of Loss but prior to the date of such payment, the Lessee shall pay on such Rent Payment Date the Basic Sublease Rent or Renewal Rent that would have been due on such Rent Payment Date if such Event of Loss had not occurred, (B) the Sublease Term shall end as to the Equipment subject to such Event of Loss and (C) the Lessor shall cause the German Lessor to Transfer to the Lessee or as the Lessee shall direct, subject to the rights of any insurer: (1) the items of Equipment which were subject to such Event of Loss; and (2) all claims, if any, relating to the leasehold interest arising from such Event of Loss against third parties for damage to or loss of the Equipment which was subject to such Event of Loss. Upon such Transfer, the Equipment which is subject to such Transfer shall cease to be an item of Equipment hereunder. The net proceeds of all such claims relating to the leasehold interest against third parties arising from such Event of Loss, if any, after payment of the German Lessor's, the Lessor's and Lessee's out-of-pocket costs and expenses shall be applied in the same manner as the proceeds of insurance are applied pursuant to Section 9.3(a).

(b) Upon the occurrence of an Event of Loss with respect to any item of Equipment (the "Destroyed Equipment"), if the Lessor shall not have commenced to exercise its rights under Article 13 hereof with respect to a Sublease Event of Default which has occurred and is continuing, the Lessee may elect, by written notice to the Lessor, the German Lessor and the Purchaser given within 30 days after the date of such Event of Loss, to

substitute equipment for such Destroyed Equipment as provided in this Section 10.1(b) and Section 10.2, in which case the Lessee shall have no obligation to make any payment pursuant to Section 10.1(a) with respect to such Destroyed Equipment; provided, that the Lessee shall not have the option to substitute equipment if such substitution shall fail to qualify as a tax-free exchange under Section 1031 of the Code. If the Lessee shall so elect to substitute, it shall within 120 days after the date of such Event of Loss convey to the German Lessor (or, if a German Lessor Disposition shall have occurred, the Lessor) substitute mass transit commuting vehicular equipment substantially similar to the Destroyed Equipment having a fair market sales value, residual value and estimated useful life at least equal to the fair market sales value, residual value and estimated useful life of, and being in as good operating condition as, the Destroyed Equipment immediately prior to the occurrence of such Event of Loss assuming that the Destroyed Equipment was at that time in the condition and repair required to be maintained hereunder.

Upon full compliance by the Lessee with the terms of Sections 10.1(b) and 10.2 and if no Sublease Default or Sublease Event of Default shall have occurred and be continuing, the Lessor shall cause the German Lessor to Transfer to the Lessee or as the Lessee shall direct, subject to the rights of any insurer: (i) the Destroyed Equipment and (ii) all claims, if any, arising from such Event of Loss against third parties for damage to or loss of the Destroyed Equipment. Upon such Transfer, the Destroyed Equipment shall cease to be an item of Equipment hereunder.

10.2. Documents Required in Connection with Substitution. At the time of any substitution for any item of Equipment pursuant to Section 10.1(b), the Lessee will deliver at its own expense to the Lessor, the German Lessor and the Purchaser the following and the following conditions precedent shall be satisfied:

(a) an Officer's Certificate stating (A) the model numbers of the replacement item of Equipment (the "Substitute Equipment") and the name of the manufacturer of the Substitute Equipment, (B) that the Substitute Equipment is in good operating condition and repair, is of a type substantially similar to the Destroyed Equipment and meets the applicable useful life and value requirements and the other requirements of Section 10.1(b), (C) that all conditions precedent provided for in Section 10.1(b) relating to such substitution have been complied with, (D) that there exists no Sublease Default or Sublease Event of Default other than a Sublease Default described in Section 12(e), (E) that such Substitute Equipment is vested in the Lessor free and

clear of all Liens other than Permitted Liens, and (F) that all necessary approvals, authorizations, consents, licenses, certificates and orders have been obtained, and such approvals, authorizations, consents, licenses, certificates or orders are in full force and effect and constitute sufficient authorization therefor;

(b) a bill of sale in form and substance reasonably satisfactory to the German Lessor and the Lessor, containing full warranties as to title (original executed copy for the German Lessor (or, if a German Lessor Disposition shall have occurred, the Lessor) only);

(c) a supplement to this Lease in form and substance reasonably satisfactory to the Lessor, the German Lessor and the Purchaser;

(d) with respect to Destroyed Equipment, a certificate of an independent expert satisfactory to the Lessor stating (A) the fair market sales value, residual value and estimated useful life of the Destroyed Equipment immediately preceding the occurrence of the Event of Loss assuming that the Destroyed Equipment at that time had been maintained in the condition and repair required by this Lease and (B) the fair market sales value, residual value and estimated useful life of the Substitute Equipment;

(e) an opinion of counsel reasonably satisfactory to the Lessor, the German Lessor and the Purchaser with respect to such bill of sale and such supplement to this Lease, such opinion in each case to be in form and substance reasonably satisfactory to the Lessor, the German Lessor and the Purchaser;

(f) a written report of an insurance broker confirming the maintenance of insurance with respect to the Substitute Equipment sufficient to comply with Article 9;

(g) an assignment to the German Lessor (or, if a German Lessor Disposition shall have occurred, the Lessor) of all assignable rights, warranties and representations with respect to the Substitute Equipment; and

(h) filings with respect to the Substitute Equipment of the type required by Section 10.1(b) of the Agreement to Purchase and Lease.

10.3. Application of Payments from Governmental Authorities for Requisition of Title. Any payments (other than insurance proceeds) the application of which is provided for in

Article 9) received at any time by the Lessor or the Lessee from any governmental authority or other Person with respect to an Event of Loss resulting from the condemnation, confiscation, theft, disappearance or seizure of, or requisition of title to or use of any item of Equipment shall be applied as follows:

(a) unless such items of Equipment are replaced pursuant to Section 10.1(b), so much of such payments as shall not exceed the amounts due under clauses (i) and (ii) of Section 10.1(a) shall be applied in reduction of the Lessee's obligation to pay such amounts, if not already paid by the Lessee, or, if already paid by the Lessee, shall be applied to reimburse the Lessee for its payment of such amounts, and the balance, if any, of such payment remaining thereafter will be paid over to or retained by the Lessor; provided that the Lessee shall be entitled to receive so much of such balance as the Lessee shall demonstrate to the Lessor's reasonable satisfaction is allocable to loss of the Lessee's interest hereunder in such items of Equipment; or

(b) if such items of Equipment are replaced pursuant to Section 10.1(b), such payments shall be paid over to or retained by the Lessee, provided that the Lessee shall have fully performed or, concurrently therewith will fully perform, the terms of Section 10.1(b).

Nothing in (a) or (b) above shall be construed to provide any payment to the Lessee until all liabilities arising under the tax indemnity provisions of the Agreement to Purchase and Lease and the Tax Indemnity Agreement associated therewith have been paid to the Lessor, the German Lessor or the Purchaser, as the case may be.

10.4. Application of Payments During Existence of Sublease Event of Default. Any amount referred to in Section 10.3 which is payable to the Lessee shall not be paid to the Lessee, or, if it has previously been paid to the Lessee, shall not be retained by the Lessee, if at the time of such payment a Sublease Default or a Sublease Event of Default shall have occurred and be continuing. In such event all such amounts shall be paid to and held by the Lessor as security for the obligations of the Lessee to make payments under the Agreement to Purchase and Lease or to pay Sublease Rent hereunder or, at the Lessor's option, applied by the Lessor toward payment of any of such obligations of the Lessee at the time due hereunder or under the Agreement to Purchase and Lease as the Lessor may elect. At such time as there shall not be continuing any Sublease Event of Default or Sublease Default, all such amounts at the time held by the Lessor in excess of the amount, if any, which the Lessor shall have elected to apply as above provided shall be paid to the Lessee.

ARTICLE 11

ASSIGNMENTS

As provided in the Agreement to Purchase and Lease, the Lessor will assign, and create a security interest in, all of its rights hereunder as provided in the Collateral Assignment to, and for the benefit of, the German Lessor. Except as contemplated by the Agreement to Purchase and Lease, the Collateral Assignment and the Accounts Receivable Purchase Agreement, this Lease shall not be assignable in whole or in part by the Lessor to any Person other than the German Lessor and the Purchaser without the consent of the Lessee (which consent shall not be unreasonably withheld), the German Lessor and the Purchaser; provided, that, in each case where this Lease is assigned, the transferee (if such transferee is a Person other than the German Lessor or an Affiliate thereof) shall be domiciled in the United States and shall assume all of the obligations of the Lessor under this Lease. To the extent, if any, that this Lease constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction), no security interest in this Lease may be created through the Transfer or possession of any counterpart other than the original executed counterpart, which shall be identified as the counterpart containing the receipt therefor executed by the German Lessor and the Purchaser on the signature page thereof.

ARTICLE 12

SUBLEASE EVENTS OF DEFAULT

The following events shall constitute Sublease Events of Default (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) any payment of Basic Sublease Rent, Renewal Rent or Sublease Stipulated Loss Value shall not be paid by the Lessee within 10 days after the same shall become due; or

(b) any other payment of Sublease Rent shall not be paid by the Lessee within 15 days after the same shall become due; or

(c) any indemnity payment to the Lessor, the German Lessor or the Purchaser in accordance with Section 10.2 or 10.3 of the Agreement to Purchase and Lease, the VAT Agreement or the Tax Indemnity Agreement shall not be paid by the Lessee when due and such nonpayment shall continue unremedied for a period of 30 days after written notice thereof by the Lessor, the German Lessor or the Purchaser to the Lessee; or

(d) insurance on the Equipment shall not be carried or maintained in compliance with the provisions of Article 9 or such insurance is cancelled (and not previously or contemporaneously replaced) for any reason whatsoever, or the Equipment shall be operated or located in any area or on any route or in any manner excluded from coverage by any insurance required by the terms of Article 9; or

(e) the Lessee shall fail to perform or observe any other covenant or agreement to be performed or observed by it hereunder, under the Agreement to Purchase and Lease, any Operative Document or other Cross Border Document and any such failure shall continue unremedied for a period of 30 days after written notice thereof to the Lessee by the Lessor, the German Lessor or the Purchaser, provided, that if such failure can be remedied but not within such 30-day period and the Lessee is taking all such action as the Lessor, the German Lessor and the Purchaser deem appropriate and necessary to remedy such failure, such period shall be extended for such longer period as may be reasonably necessary up to an additional 90 days; or

(f) any representation or warranty made by the Lessee herein, in the Agreement to Purchase and Lease, in any other Operative Document (excluding only the Tax Indemnity Agreement) or any Cross Border Document, the Warranty Bill of Sale or agreement entered into by it in connection with the Overall Transaction or the Cross Border Transaction or in any document or certificate furnished by the Lessee pursuant to any such agreements, documents or certificates shall prove to be incorrect as of the date made in any material respect and, except in the case of representations or warranties made as of the Effective Date, the condition which made such representation or warranty incorrect if remediable shall continue unremedied for a period of 30 days after written notice thereof by the Lessor, the German Lessor or the Purchaser to the Lessee; or

(g) a receiver, liquidator or trustee for the Lessee or for all or substantially all of the properties or assets of the Lessee shall be appointed by court or

governmental order and such order shall remain in effect for more than 90 days; or

(h) the Lessee shall file a petition in voluntary bankruptcy or the Lessee shall otherwise request protection under any provision of any bankruptcy or insolvency law (as now or hereafter in effect), or expressly consent to the filing of any petition against it under any such law, or make an assignment for the benefit of its creditors, or expressly consent to the appointment of a receiver, trustee or liquidator of it or of all or substantially all of its properties or assets; or

(i) a petition against the Lessee in a proceeding or case under any bankruptcy laws or other insolvency laws (as now or hereafter in effect) shall be filed and shall not be withdrawn or dismissed within 90 days thereafter, or, in case the approval of such petition by a court of competent jurisdiction is required, the petition as filed or amended shall be approved by such a court as properly filed and such approval shall not be withdrawn or the proceeding dismissed within 90 days thereafter, or a decree or order for relief in respect of the Lessee shall be entered by a court of competent jurisdiction in an involuntary case under the Federal bankruptcy laws, as now or hereafter constituted, or any other similar law, as now or hereafter constituted, and such decree or order shall remain in effect and unstayed for a period of 90 days, or if, under the provisions of any law providing for reorganization or winding-up of corporations which may apply to the Lessee, any court of competent jurisdiction shall assume jurisdiction, custody or control of the Lessee or of any substantial part of its property and such jurisdiction, custody or control shall remain in force unrelinquished, unstayed or unterminated for a period of 60 days; or

(j) final judgment for the payment of money in excess of \$10,000,000 or final judgments which in the aggregate exceed \$25,000,000 shall be rendered against the Lessee and the same shall remain undischarged for a period of 90 days during which execution of such judgment shall not be effectively stayed; or

(k) if for any reason any material provision of this Lease Agreement or the Agreement to Purchase and Lease obligating the Lessee shall not be in full force and effect in accordance with its terms or shall cease to be the lawful, valid and binding obligations of the Lessee; or

(1) if for any reason the Contract for Financial Assistance shall cease to be the lawful, valid and binding obligation of the Commonwealth, the benefits to the Lessor contemplated thereunder cease to be effective, or the Contract Assistance Provisions (as defined in Section 8.7) are substantially amended, modified or repudiated by the Commonwealth so as materially adversely to affect the benefits the Lessor derives from such Contract Assistance Provisions.

For purposes of Section 12(e), a failure to perform or observe a covenant or agreement is capable of being remedied if, in the reasonable opinion of the Lessor, the German Lessor and the Purchaser, the condition that caused such failure can be removed or rectified, compliance with the covenant or agreement can be effected and any adverse consequences caused by such failure can be cured to the reasonable satisfaction of each Person entitled to enforce such covenant or agreement. For purposes of Section 12(f), an incorrect representation or warranty is capable of being remedied if the condition that made the representation or warranty incorrect can, in the reasonable opinion of the Lessor, the German Lessor and the Purchaser, be removed or rectified.

ARTICLE 13

REMEDIES

Upon the occurrence of any Sublease Event of Default and at any time thereafter so long as the same shall be continuing, the Lessor may, at its option, declare by notice to the Lessee this Lease Agreement to be in default, and at any time thereafter so long as all outstanding Sublease Events of Default shall not have been remedied the Lessor may, in addition to any other remedies provided herein, exercise any one or more of the following remedies with respect to any or all of the Equipment as the Lessor in its sole discretion shall elect (subject to the penultimate paragraph of this Article 13):

(a) The Lessor, by notice to the Lessee specifying a payment date not earlier than 10 days, and not more than 30 days, from the date of such notice, may require the Lessee to pay to the Lessor, and the Lessee hereby agrees that it will pay to the Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain, and not as a penalty, and in lieu of any further payments of Basic Sublease Rent and, if applicable, Renewal Rent hereunder, an amount equal to the sum of (i) all unpaid Basic Sublease Rent and, if applicable, Renewal Rent payable on

each Rent Payment Date occurring on or before the Sublease Stipulated Loss Payment Date next following the Payment Date specified in such notice, plus (ii) an amount equal to the Sublease Stipulated Loss Value for any or all of the Equipment as the Lessor in its sole discretion shall elect calculated as of the Sublease Stipulated Loss Value Date next following the payment date specified in such notice (unless such payment date shall be a Sublease Stipulated Loss Value Date, in which case Sublease Stipulated Loss Value shall be computed as of such Sublease Stipulated Loss Value Date), plus (iii) interest, from the date due until the date paid, at the Overdue Interest Rate on any payment of Sublease Rent or Sublease Stipulated Loss Value not paid when due in accordance with clause (i) or (ii) of this paragraph (a); and upon such payment of liquidated damages and all other amounts then due and payable by the Lessee hereunder or under the Agreement to Purchase and Lease or any other Operative Document or Cross Border Transaction, the Lessor shall cause the German Lessor to Transfer such Equipment to the Lessee and the Lessor shall cause the German Lessor to execute and deliver such documents evidencing such transfer as the Lessee shall reasonably request.

(b) Upon demand, the Lessor may cause the Lessee at the Lessee's expense to, and the Lessee hereby agrees that it will, promptly redeliver or cause to be redelivered, the Equipment to the Lessor with all reasonable dispatch and in the same manner and in the same condition as if the Equipment were being redelivered at the expiration of the Sublease Term in accordance with all of the provisions of Section 2.2, and all the provisions of said Section shall apply to such redelivery; or the Lessor or its agent, at the Lessor's option, without further notice, may, but shall be under no obligation to, retake the Equipment wheresoever found and irrespective of whether the Lessee or any other Person may be in possession of the Equipment, all without prior demand and without legal process, and for that purpose the Lessor or its agent may enter any place where the Equipment may be and may take possession thereof, without the Lessor or its agent incurring any liability by reason of such retaking or otherwise.

(c) The Lessor or its agent (on behalf of the German Lessor unless and until a German Lessor Disposition shall have occurred) may sell the Equipment at public or private sale, as the Lessor may determine, or otherwise may dispose of, hold, use, operate, lease (whether for a period greater or less than the balance of what would have been the Basic Sublease Term or the Renewal Term, if applicable, as the case may be) to others or keep idle the Equipment, all on

such terms and conditions and at such place or places as the Lessor may determine and all free and clear of any rights of the Lessee and of any claim of the Lessee, in equity, at law or by statute, whether for loss or damage or otherwise, and without any duty to account to the Lessee, provided, that (i) if the Lessor or its agent shall sell the Equipment, the Lessee's obligation to pay Basic Sublease Rent and Renewal Rent with respect to the Equipment for any period after the date of such sale shall terminate and the Equipment shall cease to be subject to this Lease from and after the date of such sale, and (ii) the Lessee's obligation to pay Basic Sublease Rent and Renewal Rent for any period after the Lessee shall have been deprived of possession of the Equipment pursuant to this Article 13 shall be reduced by the net proceeds, if any, received by the Lessor from leasing the Equipment to, or otherwise permitting its use by, any Person other than the Lessee for all or any portion of such period. In the event the Lessor shall have sold the Equipment pursuant to this Section 13(c) (and prior thereto shall not have exercised its rights under Section 13(d)), the Lessor may demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor, as liquidated damages for the loss of a bargain and not as a penalty, on the Sublease Stipulated Loss Value Date next following such sale, any unpaid Basic Sublease Rent and Renewal Rent due on or before such Sublease Stipulated Loss Value Date plus the amount of any difference between the net proceeds of such sale paid to the Lessor and the Sublease Stipulated Loss Value, computed as of such Sublease Stipulated Loss Value Date, unless such sale occurs on a Sublease Stipulated Loss Value Date, in which case Sublease Stipulated Loss Value shall be computed as of such Sublease Stipulated Loss Value Date. Such payment shall be in lieu of all Basic Sublease Rent and Renewal Rent due after such Sublease Stipulated Loss Value Date.

(d) Whether or not the Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under Sections 13(b) or 13(c) (other than a sale under Section 13(c)), the Lessor may, at any time prior to the time that the Equipment shall have been sold by the Lessor pursuant to Section 13(c), by written notice to the Lessee requesting that the fair market sales value (as that term is defined in Section 2.4) of the Equipment be determined, demand that the Lessee pay to the Lessor, and the Lessee shall pay to the Lessor on the first Rent Payment Date occurring at least 10 days after the determination of such fair market sales value (herein called the "Designated Payment Date"), as liquidated damages for loss of a bargain and not as a penalty (in lieu of all payments of Basic Sublease Rent or Renewal Rent becoming due after the

Designated Payment Date), any unpaid Basic Sublease Rent or Renewal Rent due on or before the Designated Payment Date plus an amount equal to the excess, if any, of the Sublease Stipulated Loss Value for the Equipment as of the Designated Payment Date over the fair market sales value of the Equipment (as defined in Section 2.4 and computed in accordance with Section 2.6 as of such date).

(e) The Lessor by written notice to the Lessee may (1) terminate this Lease without relieving the Lessee of its obligations hereunder as to the Equipment; (2) exercise any other right or remedy which may be available under Applicable Law; and/or (3) proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof.

In any and all events, the Lessee shall be liable for any and all Supplemental Sublease Rent payable hereunder and all amounts payable by the Lessee under the Agreement to Purchase and Lease before, during or after the exercise of any of the foregoing remedies and also for all legal fees and any other costs and expenses whatsoever incurred by the Lessor, the German Lessor or the Purchaser by reason of the occurrence of any Sublease Event of Default or by reason of the exercise by the Lessor, the German Lessor or the Purchaser of any remedy hereunder in connection with any Sublease Event of Default including, without limitation, any costs and expenses incurred by the Lessor, the German Lessor or the Purchaser in connection with any retaking of the Equipment or, upon the redelivery or retaking of the Equipment in accordance with this Article 13, the placing of the Equipment in the condition required by and otherwise complying with the terms of Section 2.2.

No remedy referred to in this Article 13 is intended to be exclusive, but each shall be cumulative and is in addition to, and may be exercised concurrently with, any other remedy which is referred to in this Article 13 or which may otherwise be available to the Lessor at law or in equity. Subject to the payment in full of all of the Lessee's obligations under the Operative Documents and the Cross Border Documents, there shall be deducted from the aggregate amount recoverable by the Lessor pursuant to this Article 13 the net balance, if any, remaining of any monies held by the Lessor (or the German Lessor or the Purchaser) pursuant to Sections 9.5 and 10.4 which would have been required by the terms of this Lease to have been paid to the Lessee but for the occurrence of a Sublease Event of Default. No express or implied waiver by the Lessor of any Sublease Event of Default shall in any way be, or be construed to be, a waiver of any further or subsequent Sublease Event of Default.

At any public or private sale of an item of Equipment pursuant to this Article 13, the Lessee, the German Lessor or the Purchaser may bid for and purchase such property. The Lessor agrees to give the Lessee at least 15 days prior written notice of the date fixed for any public sale of an item of Equipment or of the date on or after which will occur any private sale or on or after which will occur the execution of any contract providing for any private sale and such sale shall be conducted in general so as to afford the Lessee, the German Lessor and the Purchaser a reasonable opportunity to bid.

ARTICLE 14

INSPECTION; NOTICE OF DEFAULT; RECORDATION

14.1. Inspection. At all reasonable times during the continuation of this Lease, the Lessee shall furnish to the Lessor, the German Lessor and the Purchaser such additional information concerning the location, condition, use and operation of the Equipment as such Person may reasonably request. Additionally, the Lessee shall permit the authorized representatives of the Lessor, the German Lessor and the Purchaser (a) at such Person's expense (unless a Sublease Default shall have occurred and be continuing, in which case, at the Lessee's expense), to visit and inspect any item of Equipment, its condition, use and operation and the inspection, maintenance, modification, overhaul and other records maintained in connection therewith; and (b) to discuss the finances and accounts of the Lessee, as the same may affect the performance by the Lessee of its obligations hereunder, with the financial officers and the independent accountants of the Lessee, provided that such visits, inspections and discussions do not unreasonably interfere with the operations of the Lessee and are done at such reasonable times as such Person may request, except that Lessee shall in any event make such Equipment and records available for inspection within five Business Days of the Lessor's request. None of the Lessor, the German Lessor or the Purchaser shall have any duty to make any such inspection nor shall any of them incur any liability or obligation by reason of making or not making any such inspection.

14.2. Notice of Sublease Event of Default. Promptly after Lessee has Actual Knowledge of the occurrence or existence of a Sublease Default or a Sublease Event of Default, the Lessee shall so notify the Lessor, the German Lessor and the Purchaser, which notice shall set forth in reasonable detail the circumstances surrounding such Sublease Event of Default or Sublease Default and shall specify what actions the Lessee intends to take to cure such Sublease Event of Default or such

Sublease Default. The Lessee shall furnish the Lessor, the German Lessor and the Purchaser within 60 days after the end of the sixth month of and the close of each fiscal year of the Lessee an Officer's Certificate stating that no Sublease Event of Default or Sublease Default has occurred during such six month period and is continuing as of the date of such certificate, or if any such Sublease Event of Default or Sublease Default shall have occurred and be continuing, setting forth in reasonable detail the circumstances surrounding each such Sublease Event of Default or Sublease Default.

14.3. Recordation. Forthwith upon the execution and delivery of a supplement to this Lease, the Lessee will cooperate with the Lessor to cause such supplement to be duly filed and recorded as directed by the Lessor, the German Lessor and the Purchaser and will also cooperate with the Lessor to cause this Lease Agreement, the Collateral Assignment and the Accounts Receivable Purchase Agreement to be duly filed and recorded as directed by the Lessor, the German Lessor and the Purchaser, in each case as may be required by Applicable Law.

ARTICLE 15

NOTICES

All notices, requests, consents, approvals, elections, demands and other communications required under the terms and provisions hereof shall be in writing and shall be deemed to have been sufficiently given for all purposes when delivered in hand or received by certified or registered mail, return receipt requested, postage prepaid, or by confirmed telex or other writing transmitted by means of a telecommunications device, addressed as follows: (i) if to the Lessor, at Four Embarcadero Center, Suite 1200, San Francisco, CA 94111, Attention: Manager, Operations Department LEV., (ii) if to the Lessee, at Ten Park Plaza, Boston, MA 02116, Attention: Treasurer Controller, (iii) if to the German Lessor, at Taunusanlage 12, D-6000 Frankfurt am Main 1, Federal Republic of Germany, Telex: 417300 fmd, Telefax: 7150 4225, (iv) if to the Purchaser, at 2333 Waukegan Road, P.O. Box 329, Deerfield, IL 60015, Telecopy: (312) 948-5058 (domestic) and (312) 948-7272 ext: 2663 (international), and (v) to any of the foregoing Persons at such other address as such Person may from time to time designate in writing to the other Persons in the manner herein provided.

Any notice, certificate, opinion, or other communication required under the terms and provisions hereof to be given by the Lessee to the Lessor, the German Lessor and the Purchaser shall also be given to the Purchaser.

ARTICLE 16

CONSTRUCTION AND GOVERNING LAWS

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to the Lessee any right, title or interest in any item of Equipment, except as a lessee only. The section and paragraph headings in this Lease and the table of contents are for convenience of reference only and shall not modify, define, expand or limit any of the terms or provisions hereof. All references herein to numbered sections, exhibits and schedules, unless otherwise indicated, are to sections, exhibits or schedules, as the case may be, of or to this Lease.

This Lease shall be governed by, and construed in accordance with, the laws of the Commonwealth, including, without limitation, all matters of construction, validity and performance.

ARTICLE 17

LESSOR'S RIGHT TO TAKE EQUIPMENT

Without in any way limiting the obligations of the Lessee hereunder, the Lessee hereby irrevocably appoints the Lessor as its agent and attorney, with full power and authority at the time at which the Lessee is obligated to deliver possession of any item of Equipment to the Lessor, to demand and take possession of such item of Equipment in the name and on behalf of the Lessee from whosoever shall be at the time in possession thereof.

ARTICLE 18

COVENANT OF QUIET ENJOYMENT

So long as no Sublease Event of Default shall have occurred and be continuing, the Lessor covenants that it will not interfere with the peaceful and quiet occupation and enjoyment of each item of Equipment by the Lessee.

ARTICLE 19

LESSOR LIENS

The Lessor agrees that it will not directly or indirectly create, incur, assume or suffer to exist any Lessor Lien on or with respect to any item of Equipment.

ARTICLE 20

PERFORMANCE OF LESSEE

The Lessee agrees to perform all of its obligations under all of the Operative Documents and Cross Border Documents to which it is a party.

ARTICLE 21

AMENDMENTS; MISCELLANEOUS

21.1. Amendments and Waivers. Except as provided in Section 10.1(a) of the Agreement to Purchase and Lease, neither the terms of this Lease nor the definition of any capitalized term used herein which is defined in, or by reference in, Restated Schedule X, as such capitalized term is used herein, shall be altered, modified, amended or supplemented, nor shall this Lease or any other terms hereof be waived or terminated, in any manner whatsoever except by written instrument signed by the party against which the enforcement of such alteration, modification, amendment, supplement, waiver or termination is sought and unless and until a German Lessor Disposition shall have occurred, the German Lessor and the Purchaser; nor, unless and until the Lessor shall have purchased the Equipment pursuant to its purchase option contained in the Headlease, shall any remedy or election be exercised hereunder nor any consent given hereunder without the written consent of the Purchaser. No amendment to Restated Schedule X attached hereto shall become effective until a corresponding amendment is made to Restated Schedule X attached to each of the other Cross Border Documents to which it is so attached or until the parties to each such other Cross Border Document shall have waived this condition in writing with respect to such amendment.

21.2. Binding Effect. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

21.3 Money. All amounts and moneys referred to in this Lease shall be construed to mean Dollars.

21.4. Concerning the German Lessor. In the event that a German Lessor Disposition shall have occurred, provisions of this Lease requiring the giving of notice to, obtaining the consent of or otherwise benefiting the German Lessor and the Purchaser shall no longer apply. Any term of this Lease that provides that property vest in Lessor shall, until a German Lessor Disposition shall have occurred, be deemed to provide that such property vest in the German Lessor subject to the Headlease.

21.5. Security for Lessor's Obligations to German Lessor. In order to secure the performance by the Lessor of its obligations to the German Lessor under the Headlease, the Lessor provides in the Collateral Assignment, among other things, for the assignment by the Lessor to the German Lessor of certain rights under this Lease and the supplements to this Lease and for the creation of a security interest in favor of the German Lessor of the Lessor's interest in the Equipment. Pursuant to the Accounts Receivable Purchase Agreement, the German Lessor has transferred to the Purchaser certain rights under the Headlease and the Collateral Assignment, including the rights under this Lease and any supplements to this Lease. The Lessee acknowledges the existence of, approves of and consents to such assignment and transfer, and the Lessee acknowledges receipt of a copy of the Collateral Assignment and of the Accounts Receivable Purchase Agreement.

21.6. Counterparts. This Lease may be executed in any number of counterparts and by any of the parties hereto on separate counterparts, all of which together shall constitute but one and the same instrument; provided that only the original counterpart containing the receipt executed by the German Lessor and the Purchaser shall constitute the original executed copy hereof for purposes of perfecting a security interest herein.

21.7. No Recourse. In no case whatsoever shall the Lessor be personally liable on, or for any loss in respect of, any of the representations, warranties, agreements or obligations of the Lessor hereunder as to all of which the parties hereto agree to look solely to the Equipment and this Lease, except that the Lessor shall be personally liable to the extent specified in Sections 10.1(d) and 10.7 of the Agreement to Purchase and Lease.

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

LESSOR:

SECURITY PACIFIC EQUIPMENT
LEASING, INC.

By Raleigh W. Klein

Name: Raleigh W. Klein

Title: Vice President-Finance & Treasurer

LESSEE:

MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY

By Jane F. Daly

Name: Jane F. Daly

Title: Deputy General Manager

Commonwealth of Massachusetts)
) ss:
County of Suffolk)

On this 30th day of June, 1988, before me personally appeared Raleigh W. Klein, to me personally known, who being by me duly sworn, says that he is the Vice President, Finance & Treasurer of Security Pacific Equipment Leasing, Inc., that said instrument was signed 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.

Frances E. DeJure
My Commission expires 5/25/95

Commonwealth of Massachusetts)
) ss:
County of Suffolk)

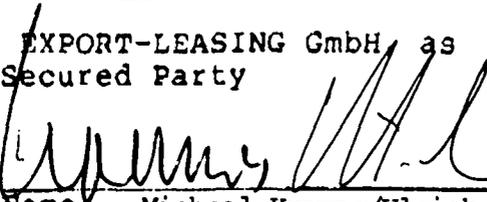
On this 30th day of June, 1988, before me personally appeared Jane F. Daly, to me personally known, who being by me duly sworn, says that she is the Deputy General Manager of Massachusetts Bay Transportation Authority, that said instrument was signed on behalf of said authority by authority of its Board of Directors, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said authority.

Frances E. DeJure
My Commission expires 5/25/95

Uniform Commercial Code Chattel Paper Receipt

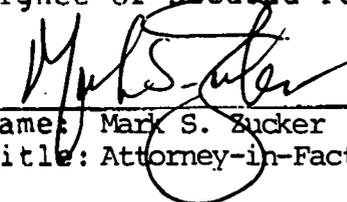
Receipt of the original counterpart of the foregoing
Lease is hereby acknowledged on this 30th day of June, 1988.

DB EXPORT-LEASING GmbH, as
Secured Party

By 

Name: Michael Kremer/Ulrich Stucke
Title: General Manager/Vice President
/Assistant

DEUTSCHE CREDIT CORPORATION, as
Assignee of Secured Party

By 

Name: Mark S. Zucker
Title: Attorney-in-Fact

CONFORMED COPY OF
LEASE SUPPLEMENT NO. 1

This Lease Supplement No. 1 is dated December 31, 1987, and is between Security Pacific Equipment Leasing, Inc., a Delaware corporation (the "Lessor"), and Massachusetts Bay Transportation Authority, a body politic and corporate and a political subdivision of The Commonwealth of Massachusetts (the "Lessee").

The Lessor and the Lessee have heretofore entered into the Lease Agreement, dated as of December 30, 1987 (the "Lease Agreement" and defined terms therein being hereinafter used with the same meanings).

NOW, THEREFORE, in consideration of the premises and other good and sufficient consideration, the Lessor and the Lessee hereto agree as follows:

1. The Lessor hereby delivers and leases to the Lessee under the Lease Agreement, and the Lessee hereby accepts and leases from the Lessor under the Lease Agreement, the items of Equipment described in the attached Annex 1.

2. The Lessee hereby confirms its agreement to pay the Lessor Interim Rent for such items of Equipment for the Interim Term and Basic Rent for such items of Equipment throughout the Basic Term in accordance with Article 8 of the Lease Agreement. Lessor's Purchase Price for such items of Equipment is \$31,297,000.

3. All of the terms and provisions of the Lease Agreement are hereby incorporated by reference in this Lease Supplement to the same extent as if fully set forth herein.

4. The Delivery Date of such items of Equipment is the date of this Lease Supplement.

5. The Interim Term for such items of Equipment shall commence on the Delivery Date thereof and shall terminate on January 29, 1988 and the Basic Term for such items of Equipment shall commence on January 30, 1988 and shall terminate on January 29, 2013.

6. This Lease Supplement is being delivered in The Commonwealth of Massachusetts and shall be governed by, and construed in accordance with, the laws of The Commonwealth of Massachusetts, including, without limitation, all matters of construction, validity and performance.

7. The Lessee hereby confirms to the Lessor that such items of Equipment have been duly marked in accordance with the terms of Section 4.1 of the Lease Agreement and that the Lessee has accepted such items of Equipment for all purposes hereof and of the Lease Agreement as being in accordance with specifications, in good working order and repair and without defect or inherent vice in title, condition, design, operation or fitness for use, whether or not discoverable by the Lessee as of the date hereof, and free and clear of all liens or encumbrances and claims of others except such liens and encumbrances which may result from claims against the Lessor not related to the ownership of such items of Equipment and except the first mortgage lien and security interest on such items of Equipment in favor of the Indenture Trustee created pursuant to the Indenture; provided, however, that nothing contained herein or in the Lease Agreement shall in any way diminish or otherwise affect any right the Lessee or the Lessor may have with respect to such items of Equipment against the Manufacturer or any subcontractor of the Manufacturer under the Purchase Agreement or the Purchase Agreement Assignment or otherwise.

8. The Lessee acknowledges the existence of, approves of and consents to the assignment by the Lessor to the Indenture Trustee of this Lease Supplement pursuant to the Indenture.

IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Lease Supplement No. 1 to be duly executed, as a document under seal, as of the day and year first above written and to be delivered in The Commonwealth of Massachusetts.

LESSOR:

SECURITY PACIFIC EQUIPMENT
LEASING, INC.

By /S/ Marc L. Marker
Name: Marc L. Marker
Title: Secretary

LESSEE:

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

By /S/ Arthur D. Shea
Name: Arthur D. Shea
Title: Acting Treasurer-
 Controller

Uniform Commercial Code Chattel Paper Receipt

Receipt of the original counterpart of the foregoing Lease Supplement is hereby acknowledged on this 31st day of December, 1987.

WILMINGTON TRUST COMPANY, as
Indenture Trustee, Mortgagee

By _____
Name:
Title:

Commonwealth of Massachusetts)
) ss:
County of Suffolk)

On this 31st day of December, 1987, before me personally appeared, Marc L. Marker, to me personally known, who being by me duly sworn, says that he is the Secretary of Security Pacific Equipment Leasing, Inc., that said instrument was signed 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.

My Commission expires _____

Commonwealth of Massachusetts)
) ss:
County of Suffolk)

On this 31st day of December, 1987, before me personally appeared, Arthur D. Shea, to me personally known, who being by me duly sworn, says that he is the Acting Treasurer-Controller of Massachusetts Bay Transportation Authority, that said instrument was signed on behalf of said authority 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 authority.

My Commission expires _____

Attachment: Annex 1

ANNEX 1

Thirty-four commuter rail coaches manufactured by Messerschmitt Bolkow Blohm GmbH (the "Manufacturer") pursuant to the Purchase Agreement, dated August 27, 1985, as amended, between the Manufacturer and Massachusetts Bay Transportation Authority ("MBTA"), identified by MBTA and Manufacturer vehicle identification numbers and having the cost more particularly described as follows:

<u>MBTA Identification Number</u>	<u>Manufacturer's Identification Number</u>	<u>Unit Type</u>	<u>Cost</u>
1500	02091	CTC-3	\$992,000
500	02108	BTC-3	849,000
1501	02092	CTC-3	992,000
501	02109	BTC-3	849,000
1502	02093	CTC-3	992,000
502	02110	BTC-3	849,000
1503	02094	CTC-3	992,000
503	02111	BTC-3	849,000
1504	02095	CTC-3	992,000
504	02112	BTC-3	849,000
1505	02096	CTC-3	992,000
505	02113	BTC-3	849,000
1506	02097	CTC-3	992,000
506	02114	BTC-3	849,000
1507	02098	CTC-3	992,000
507	02115	BTC-3	849,000
1508	02099	CTC-3	992,000
508	02116	BTC-3	849,000
1509	02100	CTC-3	992,000
509	02117	BTC-3	849,000
1510	02101	CTC-3	992,000
510	02118	BTC-3	849,000
1511	02102	CTC-3	992,000
511	02119	BTC-3	849,000
1512	02103	CTC-3	992,000
512	02120	BTC-3	849,000
1513	02104	CTC-3	992,000
513	02121	BTC-3	849,000
1514	02105	CTC-3	992,000
514	02122	BTC-3	849,000
1515	02106	BTC-3	849,000
515	02123	CTC-3	992,000
1516	02107	BTC-3	849,000
516	02124	CTC-3	992,000
		Total	<u>\$31,297,000</u>

Exhibit B
to Lease

SUBLEASE STIPULATED LOSS VALUES

<u>Sublease Stipulated Loss Value Date</u>	<u>Sublease Stipulated Loss Value Percentage</u>	<u>Sublease Stipulated Loss Value Date</u>	<u>Sublease Stipulated Loss Value Percentage</u>
6/30/1988	110.35978	12/30/2000	98.78358
12/30/1988	121.46753	6/30/2001	93.65772
6/30/1989	121.66069	12/30/2001	87.50493
12/30/1989	124.63630	6/30/2002	88.44847
6/30/1990	124.62493	12/30/2002	82.21039
12/30/1990	125.60169	6/30/2003	83.57075
6/30/1991	124.65579	12/30/2003	77.04379
12/30/1991	124.91945	6/30/2004	78.88620
6/30/1992	123.29199	12/30/2004	71.11037
12/30/1992	123.19602	6/30/2005	69.72616
6/30/1993	121.23615	12/30/2005	69.23288
12/30/1993	121.09561	6/30/2006	71.16876
6/30/1994	118.94677	12/30/2006	62.01380
12/30/1994	118.76652	6/30/2007	56.56149
6/30/1995	116.40571	12/30/2007	48.68513
12/30/1995	116.21314	6/30/2008	51.08245
6/30/1996	113.65265	12/30/2008	42.94823
12/30/1996	113.47015	6/30/2009	45.07575
6/30/1997	110.74110	12/30/2009	36.65925
12/30/1997	110.63001	6/30/2010	38.49140
6/30/1998	107.74256	12/30/2010	29.76586
12/30/1998	107.73353	6/30/2011	31.27468
6/30/1999	103.30619	12/30/2011	22.21083
12/30/1999	103.46888	6/30/2012	23.36569
6/30/2000	98.39152	12/30/2012	20.02620

Schedule 1
to Lease

Basic Sublease Rent

<u>Date</u>	<u>No.</u>	<u>Percentage Rate</u>	<u>Date</u>	<u>No.</u>	<u>Percentage Rate</u>
6/30/1988	1	2.7103600	12/30/2000	26	2.1060482
12/30/1988	2	3.4787034	6/30/2001	27	7.9309677
6/30/1989	3	4.7334005	12/30/2001	28	8.5252215
12/30/1989	4	3.4191526	6/30/2002	29	1.5117944
6/30/1990	5	4.7929513	12/30/2002	30	8.8746806
12/30/1990	6	3.3539490	6/30/2003	31	1.1623353
6/30/1991	7	4.8581549	12/30/2003	32	9.2589649
12/30/1991	8	3.2825561	6/30/2004	33	0.7780510
6/30/1992	9	4.9295478	12/30/2004	34	7.1711002
12/30/1992	10	3.2043861	6/30/2005	35	1.0410037
6/30/1993	11	5.0077178	12/30/2005	36	0.4746225
12/30/1993	12	3.1187959	6/30/2006	37	8.4309170
6/30/1994	13	5.0933080	6/30/2006	38	2.0437055
12/30/1994	14	3.0250812	12/30/2006	39	7.9933099
6/30/1995	15	5.1870227	6/30/2007	40	10.0370159
12/30/1995	16	2.9224705	12/30/2007	41	0.0000000
6/30/1996	17	5.2896334	6/30/2008	42	10.0370159
12/30/1996	18	2.8255356	12/30/2008	43	0.0000000
6/30/1997	19	5.3865683	6/30/2009	44	10.0370159
12/30/1997	20	2.7039833	12/30/2009	45	0.0000000
6/30/1998	21	5.5081206	6/30/2010	46	10.0370159
12/30/1998	22	2.5708926	12/30/2010	47	0.0000000
6/30/1999	23	7.0449464	6/30/2011	48	10.0370159
12/30/1999	24	2.3585439	12/30/2011	49	0.0000000
6/30/2000	25	7.6784719	6/30/2012	50	4.2900216

RESTATED SCHEDULE X

RESTATED SCHEDULE X

The following terms shall have the respective meanings set forth below:

"Acceptance Certificate" means an Acceptance Certificate substantially in the form of Exhibit A to the Headlease, delivered pursuant to Section 2.3 of the Headlease.

"Accounts Receivable Purchase Agreement" means the Accounts Receivable Purchase Agreement No. 1, dated June 25, 1988, between the Purchaser and the German Lessor, as such Accounts Receivable Purchase Agreement No. 1 may be amended, modified or supplemented in accordance with the terms thereof.

"Accounts Receivable Purchase Agreement No. 2" means the Accounts Receivable Purchase Agreement No. 2, dated June 25, 1988, between the Purchaser and the U.S. Lessor, as such Accounts Receivable Purchase Agreement No. 2 may be amended, modified or supplemented in accordance with the terms thereof.

"Actual Knowledge" means (a) with respect to the Sublessee, actual knowledge of its Chairman, General Manager, Treasurer-Controller, or Director of Railroad Operations, (b) with respect to the U.S. Lessor, actual knowledge of the President, any Vice President, Treasurer, Secretary and any Contract Administrator (whether or not any such title is preceded by any modifier such as Assistant) and (c) with respect to the German Lessor, actual knowledge of any General Manager. "Actual Knowledge" shall be deemed to exist following receipt of written notice of a fact, event, condition or other circumstance by any such Person.

"Additional Investment" has the meaning specified in Section 8.1 of the Sublease.

"Additions" has the meaning specified in Article 6 of the Sublease.

"Affiliate", of any Person, means any other Person controlling, controlled by or under direct or indirect common control with such Person. For the purposes of this definition, "control", when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"After-tax Basis," or "after-tax basis," or similar term, means, when used with respect to the payment of any amount

and a requirement or contemplation that a gross amount paid shall produce a net amount received and retained by the recipient after payment or proper provision for Taxes and any other taxes imposed on the disbursement or receipt of such gross amount, that gross amount which, after deduction of all Taxes and any other taxes imposed by any jurisdiction or other taxing authority upon or measured by, or otherwise resulting from, the disbursement or receipt of such gross amount or any part thereof, will provide such net amount to the recipient, free of all Taxes and taxes.

"Agreement to Purchase and Lease" means the Agreement to Purchase and Lease, dated as of June 25, 1988, among the Sublessee, the U.S. Lessor, the German Lessor, the Purchaser, the Indenture Trustee and the Original Noteholder.

"Applicable Law" means all applicable laws, treaties, judgments, decrees, injunctions, writs and other orders of any court, governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any governmental body, instrumentality, agency or authority and, with respect to the Equipment shall include the rules in effect from time to time of the American Association of Railroads.

"Authorized Investments" means (a) readily marketable obligations of, or fully and unconditionally guaranteed (as to both principal and interest) by, the United States of America and having a maturity not in excess of one Business Day from the date of acquisition thereof; (b) certificates of deposit (having a maturity not in excess of 30 days from the date of acquisition thereof) evidencing direct obligations of any commercial bank or trust company organized in the United States of America and having capital, surplus and undivided profits of at least \$1,000,000,000; and (c) so-called money market funds, banker's acceptances or similar obligations (having a maturity not in excess of 30 days) issued by the Purchaser.

"Base Rate" means the interest rate per annum announced and made effective from time to time by Security Pacific National Bank, at its principal office in Los Angeles, California, as the prime rate or, as the case may be, the base, reference or other similar rate then designated by it for general commercial lending reference purposes, it being understood that such rate is a reference rate, not necessarily the lowest, which serves as the basis upon which effective rates of interest are calculated for obligations making reference thereto.

"Basic Headlease Rent" means the rent payable for the Equipment pursuant to and as defined in Section 8.1 of the Headlease.

"Basic Sublease Rent" means the rent payable for the Equipment with respect to the Basic Sublease Term pursuant to and as defined in Section 8.1 of the Sublease, subject to adjustments as provided in Sections 8.1 and 8.6 of the Sublease and in the Tax Indemnity Agreement.

"Basic Sublease Term" means the period beginning on January 30, 1988 and ending December 30, 2012 or such earlier date as the Sublease shall be terminated as provided therein, including any termination of the Sublease pursuant to Section 2.7 thereof.

"Board" means the Board of Directors of the Sublessee.

"Board Resolution" means a resolution of the Board certified by the Secretary or Assistant Secretary of the Sublessee to have been duly adopted by the Board and to be in full force and effect on the date of such certification.

"Business Day" means any day other than a Saturday or a Sunday or a day on which commercial banking institutions in the City of Boston, Massachusetts, the City of San Francisco, California, or The City of New York, New York or (with reference to any payment to be made to the German Lessor) the City of Frankfurt am Main, Federal Republic of Germany, are authorized by law to be closed. Any reference herein to "days" (unless Business Days are specified) shall mean calendar days.

"CFA Amendment" means the Consent and Agreement of the Commonwealth (agreed to by the Sublessee), dated the Effective Date, amending the Contract for Financial Assistance.

"Code" means the Internal Revenue Code of 1986, as from time to time amended, and any redesignated or successor provisions, except that references to Section 168 and Section 103 of the Code shall refer to such provisions of the Internal Revenue Code of 1954 as amended by the Tax Equity and Fiscal Responsibility Act of 1982 as continue to apply to the determination of certain of the U.S. Lessor's Tax Benefits as a consequence of the provisions of Section 31(g)(5) of the Deficit Reduction Act of 1984 and Section 204(a)(4) of the Tax Reform Act of 1986.

"Collateral" has the meaning specified in the granting clause of the Collateral Assignment.

"Collateral Assignment Default" means an event or condition which, with notice or lapse of time or both, would constitute a Collateral Assignment Event of Default.

"Collateral Assignment Event of Default" has the meaning specified in Section 4.2 of the Collateral Assignment.

"Collateral Assignment" means the Collateral Assignment and Security Agreement, dated as of June 25, 1988, between the U.S. Lessor and the German Lessor, as such Collateral Assignment and Security Agreement may from time to time be supplemented, amended or modified in accordance with the terms thereof.

"Commitment", of each Participant, means the amount set forth opposite such Participant's name in Schedule 1 to the Participation Agreement in the column relating to "Commitments".

"Commonwealth" means The Commonwealth of Massachusetts.

"Consent and Agreement of Lessee" means the Consent and Agreement of the Lessee, dated as of the Delivery Date, between the U.S. Lessor and the Sublessee, as such Consent and Agreement of Lessee has been amended and restated as of the Effective Date and may from time to time be further amended, modified or supplemented in accordance with the terms thereof.

"Contract Assistance Provisions" has the meaning specified in Section 8.7 of the Sublease.

"Contract for Financial Assistance" means an agreement, dated December 30, 1987 between the Sublessee and the Commonwealth, with respect to the Participation Agreement and the transactions contemplated thereby, as such agreement may from time to time be supplemented, amended or modified in accordance with its terms.

"Cost Recovery Deductions" has the meaning specified in Section 2 of the Tax Indemnity Agreement.

"Cross Border Transaction" means the transfer of the Equipment by the U.S. Lessor to the German Lessor, the lease of the Equipment by the German Lessor to the U.S. Lessor under the Headlease and the related transactions contemplated in the Agreement to Purchase and Lease.

"Cross Border Documents" has the meaning specified in Section 4(c) of the Agreement to Purchase and Lease.

"DBAG Letter Agreement" means the letter agreement, dated June 30, 1988, from Deutsche Bank A.G. in favor of the Sublessee and the U.S. Lessor relating to the Profit Transfer Agreement between Deutsche Bank A.G. and the German Lessor.

"DCC Accounts Receivable" has the meaning specified in Section 2 of the Accounts Receivable Purchase Agreement.

"Delivery Date" means December 31, 1987.

"Designated Payment Date" has the meaning specified in Sections 13(d) of the Sublease and of the Headlease.

"Destroyed Equipment" has the meaning specified in Sections 10.1(b) of the Sublease and of the Headlease.

"Dollars" or "\$" means lawful currency of the United States of America.

"Effective Date" means June 30, 1988.

"Equipment" means the 34 Messerschmitt-Bolkow-Blohm commuter rail coaches manufactured by the Manufacturer and sold to the Sublessee pursuant to the Purchase Agreement, sold by the Sublessee to the U.S. Lessor and leased by the U.S. Lessor to the Sublessee under the Lease and Lease Supplement No. 1 pursuant to the Participation Agreement and to be transferred by the U.S. Lessor to the German Lessor and then leased by the German Lessor to the U.S. Lessor pursuant to the Headlease, the Sublessee's and Manufacturer's serial numbers of such commuter rail coaches being specified in Lease Supplement No. 1, together with Parts; and any commuter coach(es), parts or other items of Equipment which may from time to time be substituted for any commuter rail coach(es) or other items of Equipment pursuant to Sections 10.1(b) of the Sublease and the Headlease. An "item of Equipment" means any one or more such commuter rail coaches or Parts, as the context may require.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Event of Loss", with respect to any item of Equipment, means any of the following events with respect to such item of Equipment: (a) the loss of such item of Equipment or of the use thereof due to the destruction of, or damage beyond repair to such item of Equipment which (in the good faith and reasonable opinion of the Sublessee) renders it permanently unfit for normal use by the Sublessee for any reason whatsoever, such determination to be made promptly after the occurrence of such event and to be evidenced by an Officer's Certificate of the Sublessee delivered to the U.S. Lessor, the German Lessor and the Purchaser; (b) the loss of the use for 180 consecutive days or more of such item of Equipment due to wear or damage which in the good faith and reasonable opinion of the Sublessee can and will be repaired; (c) any damage to such item of Equipment which

results in an insurance settlement with respect to such item of Equipment on the basis of a total loss or a constructive or compromised total loss; (d) the requisition of title to or the loss of title to such item of Equipment; (e) the confiscation, condemnation or seizure of, or the requisition for use of, such item of Equipment which shall have resulted in the loss of possession of such item of Equipment for 180 consecutive days or more; or (f) the theft or disappearance of such item of Equipment which shall have resulted in the loss of possession of such item of Equipment by the Sublessee for 60 consecutive days or more.

"Excepted Rights" means the non-exclusive rights of the U.S. Lessor to obtain relief and recovery from and to pursue and enforce against the Sublessee the remedies enumerated in clauses (2) and (3) of Article 13(e) of the Sublease, at law, in equity and/or in bankruptcy or any insolvency proceeding, including without limitation, mandamus proceedings, together with any action in the nature of declaratory relief to construe the terms of the Operative Documents and the Cross Border Documents as they affect the relative rights of the U.S. Lessor and Sublessee only and/or any laws or statutes with respect to the Overall Transaction and the Cross Border Transaction as they affect the relative rights of the U.S. Lessor and the Sublessee only with respect to the payment of damages, costs and indemnities due the U.S. Lessor under the Sublease, the Agreement to Purchase and Lease, including without limitation to Sections 10.2 and 10.3 thereof, the VAT Agreement, and/or the Tax Indemnity Agreement, and to require the Sublessee specifically to perform all of its obligations under the Operative Documents and the Cross Border Documents. Notwithstanding the foregoing, Excepted Rights shall not be deemed to preclude the simultaneous exercise of such rights by the German Lessor against the Sublessee, and shall not be exercisable by the U.S. Lessor in a manner inconsistent with the rights of the German Lessor to pursue and enforce its rights as the full assignee of the Sublease pursuant to the terms of the Collateral Assignment.

"Excluded German Taxes" means any taxes imposed by the Federal Republic of Germany on any payment of Headlease Rent or Sublease Rent solely by reason of the Federal Republic of Germany treating such payment as having been made to the Purchaser by or on behalf of the German Lessor.

"Excluded Payments" means (a) indemnity payments (i) paid or payable by the Sublessee to or on behalf of the U.S. Lessor as Sublease Rent (specifically including any Sublease Rent or other payment required to be paid by the Sublessee to the U.S. Lessor pursuant to Section 10.2 or 10.3 of the Agreement to Purchase and Lease and any amounts required to be paid by the Sublessee to the U.S. Lessor pursuant to the VAT Agreement and

the Tax Indemnity Agreement) or (ii) paid or payable by the U.S. Lessor or the Sublessee to the German Lessor as Headlease Rent under the Headlease or under the Collateral Assignment or the Agreement to Purchase and Lease, (b) adjustments to Basic Sublease Rent and Sublease Stipulated Loss Value as a result of an Additional Investment pursuant to Section 8.1 of the Sublease to reflect certain Transaction Costs and (c) amounts payable pursuant to Section 3(d)(iv) of the Purchase Agreement Assignment.

"Execution Date" means December 30, 1987.

"Funding Date" means the Delivery Date.

"German Lessor" means DB Export-Leasing GmbH, a German company, and its successors and permitted assigns.

"German Lessor Disposition" means the consummation of the transaction contemplated in Article 16, clause Third of Section 13.2 or paragraph (a) of Section 10.1 (as to all of the Equipment) of the Headlease or Section 2.2 of the Collateral Assignment.

"German Lessor Security Agreement" means the Security Agreement, dated as of the Effective Date, between the German Lessor, as debtor, and the U.S. Lessor, as secured party, as such Security Agreement may be amended, modified or supplemented in accordance with the terms thereof.

"German Lessor's Purchase Price" means with respect to any item of Equipment, the amount specified as the cost of such item in Annex 1 attached to the Acceptance Certificate.

"Headlease" means the Lease Agreement, dated as of June 25, 1988 between the German Lessor, as lessor, and the U.S. Lessor, as Lessee, as such Lease Agreement may be amended, modified or supplemented in accordance with the terms thereof.

"Headlease Default" means an event or condition which, with the giving of notice or lapse of time or both, would constitute a Headlease Event of Default.

"Headlease Event of Default" has the meaning specified in Section 12 of the Headlease.

"Headlease Rent" means Basic Headlease Rent and Supplemental Headlease Rent.

"Headlease Stipulated Loss Value" as of any Headlease Stipulated Loss Value Date during the Headlease Term, means, with respect to any item of Equipment, an amount determined by multiplying German Lessor's Purchase Price thereof by the percentage specified in Exhibit B to the Headlease opposite the Headlease Stipulated Loss Value Date with respect to which the amount is determined. Anything contained in the Headlease (including Exhibit B thereto) to the contrary notwithstanding, the Headlease Stipulated Loss Value for the Equipment as of each such date shall in no event be less than an amount at least sufficient to pay in full the DCC Accounts Receivable receivable by the Purchaser on such date.

"Headlease Stipulated Loss Value Date" means each date set forth on Exhibit B to the Headlease.

"Headlease Term" means, with respect to the Headlease, the term for which any item of Equipment is leased thereunder.

"Indemnified Persons" means the U.S. Lessor, the German Lessor, the Purchaser, the Collateral and their respective successors, assigns, agents, partners and the servants and employees of each thereof.

"Indenture" means the Trust Indenture and Security Agreement, dated as of the Execution Date, between the U.S. Lessor and the Indenture Trustee, as amended or supplemented by Trust Indenture Supplement No. 1, dated the Delivery Date, between the U.S. Lessor and the Indenture Trustee.

"Indenture Estate" means the property granted to the Indenture Trustee pursuant to the Granting Clause of the Indenture (but excluding from the Indenture Estate all Excluded Payments and Excepted Rights).

"Indenture Trustee" means Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity (except as set forth in the Participation Agreement) but solely as indenture trustee under the Indenture, and, to the extent permitted by the Indenture, its successors and assigns.

"Interim Rent" means the Rent payable pursuant to Section 8.1(a)(1) of the Lease.

"Interim Term" means, with reference to the Lease, the period commencing on the Delivery Date and expiring on January 29, 1988.

"Interest Deductions" has the meaning specified in Section 2 of the Tax Indemnity Agreement.

"Investment Grade" means, as to the Sublessee's long-term, unsecured tax-exempt debt, those obligations which are rated Baa or higher by Moody's or BBB or higher by S&P. For purposes of this definition, "Moody's" means Moody's Investors Service, Inc., a Delaware corporation, its successors and assigns; and S&P means Standard & Poor's Corporation, a New York corporation, its successors and assigns. If either Moody's or S&P shall for any reason no longer perform the functions of a securities rating agency, "Moody's" or "S&P", as the case may be, shall be deemed to refer to any other nationally recognized rating agency designated by the Sublessee and satisfactory to the U.S. Lessor and in such event the rating by such agency shall be equivalent to Baa or higher by Moody's or BBB or higher by S&P.

"Lease" means the Lease Agreement, dated as of December 30, 1987, between the U.S. Lessor, as lessor, and the Sublessee, as lessee, as amended and supplemented by Lease Supplement No. 1.

"Lease Supplement No. 1" means Lease Supplement No. 1, dated December 31, 1987, between the U.S. Lessor and the Sublessee, and identifying the items of Equipment subject to the Lease.

"Lessor Lien" or "Lessor's Liens" means any Lien or disposition of title which results from a claim against or act of the U.S. Lessor or the German Lessor that is not a claim against or act of the Sublessee and either (a) results from claims against the U.S. Lessor or the German Lessor not related to the Overall Transaction or the Cross Border Transaction, (b) results from an affirmative act of the U.S. Lessor or the German Lessor which is neither required or permitted to be taken by the U.S. Lessor or the German Lessor, as the case may be, pursuant to a provision of any Operative Document or any Cross Border Document nor consented to by the Sublessee nor taken as a result of the occurrence and continuance of a Sublease Event of Default as permitted under the Sublease or a Headlease Event of Default as permitted under the Headlease, or (c) results from nonpayment by the U.S. Lessor or the German Lessor of any taxes imposed on such Person or the consolidated group of taxpayers of which such Person is a part which the Sublessee is not required to indemnify against pursuant to any of the Operative Documents or the Cross Border Documents or is so required and has made such indemnification payment.

"Lessor's Cost", as of any date means, with respect to any item of Equipment, the Lessor's Purchase Price thereof

plus Transaction Costs, as such aggregate amount may be adjusted to reflect each Additional Investment or Reduced Investment pursuant to Section 8.1 of the Sublease.

"Lessor's Purchase Price" means, with respect to any item of Equipment, the amount specified as such as the cost of such item in Annex 1 attached to Lease Supplement No. 1, being the sum of (a) an amount equal to the aggregate payments for such item of Equipment made to or on behalf of the Sublessee by the U.S. Lessor pursuant to the Participation Agreement on or prior to the Delivery Date thereof, as specified in invoices and/or bills of sale, and (b) any taxes applicable to the purchase of such item of Equipment by the U.S. Lessor which must be capitalized for Federal tax purposes, including, without limitation, sales, use, excise or similar taxes.

"Lien" means any mortgage, pledge, lien, charge, encumbrance, security interest or lease in the nature thereof (including any conditional sale agreement, equipment trust agreement or other title retention agreement).

"Majority Noteholders", as of a particular date of determination, means the Noteholders (other than the U.S. Lessor, if a Noteholder) holding more than 50% in aggregate unpaid principal amount of all Notes, if any, outstanding as of such date. If one or more but less than all of the Notes are owned or controlled by the U.S. Lessor (or an Affiliate thereof), then the other Noteholders who are not the U.S. Lessor (or Affiliates thereof) shall have sole power to vote such Notes and to take other similar action with respect thereto (such power to be divided among such other Noteholders based on the respective unpaid aggregate principal amount of Notes held by each of them).

"Manufacturer" means Messerschmitt-Bolkow-Blohm GmbH, a German company, and its successors and assigns.

"Manufacturer's Consent" means the Consent and Agreement, dated as of June 27, 1988, by the Manufacturer to the assignment by the U.S. Lessor to the German Lessor pursuant to the Collateral Assignment, by the German Lessor to the Purchaser pursuant to the Accounts Receivable Purchase Agreement and by the Purchaser to the U.S. Lessor pursuant to Accounts Receivable Purchase Agreement No. 2 of certain of the Sublessee's right, title and interest in, to and under the Purchase Agreement with respect to the Equipment.

"Net Economic Return" has the meaning specified in Section 1 of the Tax Indemnity Agreement.

"Notes" means the Series A Notes and the Series B Notes.

"Noteholders" means the Original Noteholder (only so long as such Person is the registered holder of a Note) and each other holder from time to time of a Note.

"Obsolete Parts" has the meaning specified in Articles 6 of the Headlease and of the Sublease.

"Officer's Certificate" means (a) with respect to the Sublessee, a certificate executed on behalf of the Sublessee by its duly authorized Chairman, General Manager, Treasurer, Controller or General Counsel (or by any duly authorized person holding any such office in an "Acting" capacity), signing alone; (b) with respect to the U.S. Lessor, a certificate executed on behalf of the U.S. Lessor by the duly authorized President or any Vice President, Treasurer or Secretary or Contract Administrator (whether or not any such title is preceded by any modifier such as Assistant), signing alone; (c) with respect to the German Lessor, a certificate executed on behalf of the German Lessor by any two of its duly authorized General Managers; and (d) with respect to the Purchaser, a certificate executed on behalf of the Purchaser by the duly authorized President or any Vice President, Treasurer or Secretary (whether or not any such title is preceded by any modifier such as Executive, Senior or Assistant).

"Operative Documents" means the Participation Agreement, the Indenture, the Lease, the Contract for Financial Assistance, the Sublessee's Assignment, the Consent and Agreement of Sublessee, the Tax Indemnity Agreement, the Purchase Agreement and the Purchase Agreement Assignment.

"Original Noteholder" means New England Merchants Funding Corporation, a Massachusetts corporation.

"Original Noteholder Note" means the Series A Variable Rate, Registered, Non-Recourse Secured Note due January 30, 2010 in the principal amount of \$22,938,858.49 issued by the U.S. Lessor to the Original Noteholder.

"Original Participation" of a Participant in the Equipment, means the amount paid by such Participant pursuant to Section 2 of the Participation Agreement as such Participant's participation in the payment of the Lessor's Purchase Price of the Equipment.

"Overall Transaction" means the manufacture, purchase, ownership, financing, leasing, operation, maintenance, storage, return and disposition of the Equipment as described and contemplated by the Operative Documents.

"Overdue Interest Rate" means the rate per annum equal to the sum of one and one-half (1-1/2) percentage points plus the higher of (i) the Base Rate plus 1.5% or (ii) 10.5% per annum.

"Participants" means the U.S. Lessor and the Original Noteholder.

"Participation Agreement" means the Participation Agreement, dated as of the Execution Date, among the Sublessee, the U.S. Lessor, the Original Noteholder and the Indenture Trustee.

"Parts" means all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature so long as the same shall be incorporated or installed in or attached to any item of Equipment or so long as title thereto shall remain vested in the German Lessor in accordance with Section 5.3 or Article 6 of the Headlease after removal from such item of Equipment; provided, that in no event shall any appliance, part, instrument, appurtenance, accessory, furnishing or other equipment that does not become a portion of the Equipment, in accordance with Section 5.3 or Article 6 of the Headlease, constitute a Part.

"Permitted Liens" means (a) the Lien of the Collateral Assignment, (b) the subordinate rights of others under agreements or arrangements to the extent expressly permitted by the terms of Sections 4.2 of the Headlease and of the Sublease and Section 4.3(a) of the Collateral Assignment, (c) Lessor Liens, (d) Liens for taxes, assessments, charges or other governmental levies either not yet due or being contested in good faith by appropriate proceedings promptly initiated and diligently prosecuted but only so long as (i) such proceedings do not involve any material danger of the sale, forfeiture or loss of any item of Equipment, or any interest therein, and (ii) adequate reserves are maintained in accordance with applicable accounting principles with respect to such Liens, (e) materialmen's, mechanics', carriers', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business for amounts the payment of which is not overdue for a period in excess of 30 days or is being contested in good faith by appropriate proceedings promptly initiated and diligently prosecuted but only so long as (i) such proceedings do not involve any danger of the sale, forfeiture or loss of any item of

Equipment, or any interest therein and (ii) adequate reserves are maintained in accordance with applicable accounting principles with respect to such Liens, and (f) Liens arising out of judgments or awards against the Sublessee with respect to which an appeal or proceeding for review is being diligently prosecuted in good faith and with respect to which a stay of execution shall have been secured or an appeal bond shall have been filed pending such appeal or proceeding for review but only so long as (i) such proceedings do not involve any danger of the sale, forfeiture or loss of any item of Equipment, or any interest therein, and (ii) adequate reserves are maintained in accordance with applicable accounting principles with respect to such judgments or awards.

"Person" means an individual, a corporation, a partnership, an unincorporated organization, an association, a joint stock company, a joint venture, a trust, an estate, a government or any agency or political subdivision thereof or any other entity.

"Prime Rate" means the interest rate per annum announced and made effective from time to time by Security Pacific National Bank, at its principal office in Los Angeles, California, as the prime rate or, as the case may be, the base, reference or other similar rate then designated by it for general commercial lending reference purposes, it being understood that such rate is a reference rate, not necessarily the lowest, which serves as the basis upon which effective rates of interest are calculated for obligations making reference thereto.

"Purchase Agreement" means the Agreement, dated August 7, 1985, between the Manufacturer and the Sublessee, as amended, modified and supplemented on or prior to the Delivery Date, providing, among other things, for the manufacture by the Manufacturer and sale to the Sublessee of the Equipment, as such Agreement may thereafter from time to time be amended, modified or supplemented in accordance with the applicable provisions thereof and of the Purchase Agreement Assignment.

"Purchase Agreement Assignment" means the Purchase Agreement Assignment, dated as of the Delivery Date, between the Sublessee and the U.S. Lessor (together, prior to the Effective Date, with the Consent and Agreement of the Manufacturer attached thereto and, after the Effective Date, with the Manufacturer's Consent), assigning to the U.S. Lessor certain of the Sublessee's right, title, and interest in, to and under the Purchase Agreement with respect to the Equipment, as such Purchase Agreement Assignment may from time to time be supplemented, amended or modified to the extent permitted by and in accordance with the terms thereof and of the Agreement to Purchase and Lease and the Collateral Assignment.

"Purchaser" means Deutsche Credit Corporation, a Delaware corporation, and its successors and assigns.

"Reduced Investment" has the meaning specified in Section 8.1 of the Sublease.

"Regulations" means the Treasury Regulations, as amended, promulgated under the Code or other Federal tax statutes (as referred to in clause (i) of the definition of "Tax Laws" in this Schedule X) by the Treasury Department of the United States of America.

"Renewal Rent" with respect to the first, three-year Renewal Term provided for in section 2.5 of the Sublease, means an amount equal to the lesser of (i) 50% of the average Basic Rent over the Basic Term of the Lease and (ii) the fair market rental value of the Renewal Equipment determined in accordance with the Sublease. "Renewal Rent" with respect to the second, seven-year Renewal Term provided for in Section 2.5 of the Sublease means the fair market rental value of the Renewal Equipment.

"Renewal Term" means, with respect to the Sublease, the three-year renewal term provided for in Section 2.5 of the Sublease beginning on December 31, 2012, and ending on December 30, 2015 and, if applicable, the seven-year renewal term provided for in Section 2.5 of the Sublease beginning on December 31, 2015 and ending on December 30, 2022.

"Rent Payment Date" means June 30, 1988, and each December 30 and June 30 thereafter, to and including the day after the last date included within, in the case of the Headlease, the Headlease Term and, in the case of the Sublease, the Sublease Term.

"Restated Consent and Agreement of the Lessee" means the agreement, dated the Effective Date, between the U.S. Lessor and the Sublessee, amending and restating the Consent and Agreement of the Lessee.

"Restated Sublessee's Assignment" means the agreement, dated the Effective Date, between the U.S. Lessor and the Sublessee, amending and restating the Lessee's Assignment.

"Satisfaction of Mortgage" means the Satisfaction of Mortgage, dated the Effective Date, executed by the Indenture Trustee evidencing the final discharge and satisfaction of the Indenture.

"Series A Notes" means the Series A Notes, each to be in substantially the form therefor set forth in Section 2.01(a) of the Indenture, issued by the U.S. Lessor pursuant to Section 2.02 of the Indenture to the Original Noteholder in the principal amount, bearing interest at the rates and payable as to principal and interest as provided in said Section 2.02, and secured as provided in the Granting Clause of the Indenture, and shall include any Series A Notes issued in exchange therefor or in replacement thereof pursuant to Sections 2.07 or 2.08 of the Indenture.

"Series B Notes" means the Series B Notes, each to be in substantially the form therefor set forth in Section 2.01(b) of the Indenture, issued by the U.S. Lessor pursuant to Section 2.13 of the Indenture in the principal amounts, bearing interest at the rates and payable as to principal and interest as provided in said Section 2.13, and secured as provided in the Granting Clause of the Indenture, and shall include any Series B Notes issued in exchange therefor or in replacement thereof pursuant to Sections 2.07 or 2.08 of the Indenture.

"SP Accounts Receivable" has the meaning specified in Section 2 of the Accounts Receivable Purchase Agreement No. 2.

"Special Event of Default" has the meaning set forth in Section 4.02 of the Indenture.

"Sublease" means the Lease, as amended and restated as of June 25, 1988, as the Lease (as so amended and restated) may from time to time be further amended, supplemented or modified in accordance with the terms thereof.

"Sublease Default" means an event or condition which, with the giving of notice or lapse of time or both, would constitute a Sublease Event of Default.

"Sublease Events of Default" has the meaning specified in Article 12 of the Sublease.

"Sublease Rent" means Interim Rent, Basic Sublease Rent, Renewal Rent and Supplemental Sublease Rent.

"Sublease Stipulated Loss Value" as of any Sublease Stipulated Loss Value Date during the Basic Sublease Term, means, with respect to any item of Equipment, an amount determined by multiplying Lessor's Purchase Price thereof by the percentage specified in Exhibit B to the Sublease opposite the Sublease Stipulated Loss Value Date with respect to which the amount is determined, subject to adjustment as provided in Sections 8.1 and 8.5 of the Sublease. As of any Sublease Stipulated Loss Value

Date during the first, three-year Renewal Term the Sublease Stipulated Loss Value shall be an amount equal to the greater of (i) the then fair market sales value of the Equipment or (ii) 20% of the Lessor's Purchase Price thereof. The Sublease Stipulated Loss Value at June 30, 2016 shall be equal to the then fair market sales value of the Equipment, and as of each subsequent Sublease Stipulated Loss Value Date during the second, seven-year Renewal Term shall be equal to an amount determined (1) by estimating at December 30, 2015 the fair market sales value of the Equipment at December 30, 2022 and (2) equitably and ratably reducing at each such Sublease Stipulated Loss Value Date the amount of the fair market sales value at June 30, 2016 to such fair market sales value at December 30, 2022. Anything contained in the Sublease (including Exhibit B thereto) to the contrary notwithstanding, the Sublease Stipulated Loss Value for the Equipment as of each such date shall in no event be less than an amount at least sufficient to pay in full the aggregate unpaid principal amount of the Headlease Stipulated Loss Value due as of such date.

"Sublease Stipulated Loss Value Date" means (i) for the Basic Sublease Term each date set forth on Exhibit B to the Sublease, (ii) for the first Renewal Term, June 30, 2013 and each December 30 and June 30 thereafter to and including December 30, 2015, and (iii) for the second Renewal Term, June 30, 2016 and each December 30 and June 30 thereafter to and including December 30, 2022.

"Sublease Term" means, with respect to the Sublease, the term, including the Interim Term and any Renewal Term, if any, for which any item of the Equipment is leased thereunder.

"Sublessee" means Massachusetts Bay Transportation Authority, a body politic and corporate and a political subdivision of the Commonwealth, and its successors and, to the extent permitted by the Lease, assigns.

"Sublessee's Assignment" means the Lessee's Assignment, dated as of the Delivery Date, between the U.S. Lessor and the Sublessee, as such Lessee's Assignment has been or will be amended and restated as of the Effective Date may from time to time be further amended, modified or supplemented in accordance with the terms thereof.

"Substitute Equipment" has the meaning set forth in Section 10.2 of the Sublease.

"Supplemental Headlease Rent" means any and all amounts, liabilities and obligations (other than Basic Headlease

Rent) which the U.S. Lessor assumes or agrees to pay to or as directed by the German Lessor and the Purchaser under any of the Cross Border Documents, including, without limitation, Headlease Stipulated Loss Value and interest (including any payments at the Overdue Interest Rate) and payments pursuant to Accounts Receivable Purchase Agreement No. 2.

"Supplemental Sublease Rent" means any and all amounts, liabilities and obligations (other than Interim Rent, Basic Sublease Rent and Renewal Rent) which the Sublessee assumes or agrees to pay to or as directed by the U.S. Lessor, the German Lessor and the Purchaser under any of the Operative Documents or the Cross Border Documents, including, without limitation, Sublease Stipulated Loss Value and interest (including any payments at the Overdue Interest Rate) and indemnity payments, including, without limitation, any such payments pursuant to Section 10.2 or 10.3 of the Agreement to Purchase and Lease, the VAT Agreement, and the Tax Indemnity Agreement.

"Supplemental Tax Indemnity Agreement" means the Supplemental Tax Indemnity Agreement, dated as of the Effective Date, between the Sublessee and the U.S. Lessor.

"Tax" means any and all fees (including, without limitation, documentation, license, recording, filing and registration fees), taxes (including, without limitation, income, franchise, gross receipts, value added, turnover, sales, use, property (tangible and intangible) and stamp taxes), levies, assessments, imposts, duties, charges or withholdings of any nature whatsoever, as now or hereafter existing, imposed by any jurisdiction or taxing authority including, without limitation, the United States of America, the Commonwealth, and the Federal Republic of Germany and any political subdivision or taxing authority thereof at any time existing, together with any and all penalties, fines, additions to tax and interest thereon.

"Tax Assumptions" means those tax assumptions set forth in Section 2 of the Tax Indemnity Agreement.

"Tax Benefits" has the meaning specified in Section 1 of the Tax Indemnity Agreement.

"Tax Indemnity Agreement" means the Tax Indemnity Agreement, dated as of the Execution Date, between the Sublessee and the U.S. Lessor, as amended and supplemented by the Supplemental Tax Indemnity Agreement, as such Tax Indemnity Agreement may from time to time be further supplemented, amended or modified in accordance with the terms thereof.

"Tax Laws" means, with reference to any date or any period, (i) all Federal tax statutes, including, without limitation, (A) the Code, and (B) all other Federal tax statutes, such as but not limited to Revenue Acts and also including any Federal tax provisions included in any Public Law or other Federal statute, that are in force and effect with respect to such date or period; and (ii) all rules and regulations, including, without limitation, Treasury Regulations and Temporary Regulations, whether legislative regulations, statutorily authorized implementing regulations, interpretive rules and regulations, and procedural rules and regulations, that are at any time promulgated and in force and effect with respect to such date or period under a Federal tax statute that is in force and effect and applicable to such date or period, and includes, without limitation, revenue rulings or similar authority that may be cited as precedent.

"Transaction Costs" means all of the reasonable costs and expenses incurred by the Indenture Trustee, the U.S. Lessor or the Original Noteholder in connection with the negotiation, preparation, printing, execution and delivery of the Operative Documents, the Notes and the Cross Border Documents and in connection with the transactions contemplated thereby, all of which shall be evidenced by appropriate bills or invoices, including, without limitation:

(i) the reasonable fees, expenses and disbursements of (A) Messrs. Ropes & Gray, special counsel for the U.S. Lessor, (B) Messrs. Csaplár & Bok, special counsel for the Original Noteholders, and (C) Messrs. Richards, Layton & Finger, special counsel for the Indenture Trustee;

(ii) the initial fees and expenses and disbursements of the Indenture Trustee;

(iii) document production costs in connection with the Operative Documents and the Cross Border Documents;

(iv) the costs of the appraisals referred to in Section 5(n) of the Participation Agreement and Section 4(1) of the Agreement to Purchase and Lease;

(v) the fees, expenses and disbursements of an appraiser/consultant engaged by the U.S. Lessor to review the Operative Documents;

(vi) the fees of Xitech Inc., a Delaware corporation as invoiced on March 21, 1988; and

(vii) computer and data processing charges and other out-of-pocket expenses and costs relating to the Cross Border Transaction.

"Transfer" means the transfer of all right, title and interest of the U.S. Lessor or the German Lessor in the property being transferred, free and clear, in the case of a Transfer by the U.S. Lessor, of the Lien of the Collateral Assignment (if the German Lessor shall be required to release the Lien of the Collateral Assignment pursuant to the terms thereof) or, in the case of a Transfer by the German Lessor, of the Lien of the Accounts Receivable Purchase Agreement (if the Purchaser shall be required to release the Lien of the Accounts Receivable Purchase Agreement pursuant to the terms thereof) and of any Lessor Liens attributable to it, but otherwise without recourse, representation or warranty whatsoever, express or implied, except as to the nonexistence of any Lessor Liens attributable to it, which warranty shall be repeated at the time of such transfer and shall survive such transfer.

"Trust Indenture Supplement" means a supplement to the Indenture, in substantially the form of Exhibit A to the Indenture, that, pursuant to the Granting Clause of the Indenture, shall create a first mortgage and security interest on the items of Equipment referred to therein and assign and pledge the related Lease Supplement executed and delivered pursuant to the Lease to the Indenture Trustee as part of the Indenture Estate.

"U.S. Lessor" means Security Pacific Equipment Leasing, Inc., a Delaware corporation, its successors and permitted assigns.

"U.S. Lessor's Bill of Sale" means the Bill of Sale, dated the Effective Date, from the U.S. Lessor to the German Lessor.

"VAT Agreement" means the VAT Agreement, dated as of June 30, 1988, among the Sublessee, the U.S. Lessor, the German Lessor and the Purchaser relating to German value added tax, as such VAT Agreement may from time to time be amended, modified or supplemented in accordance with the terms thereof.

"Warranty Bill of Sale" means the Warranty Bill of Sale, dated as of the Delivery Date, from the Sublessee to the U.S. Lessor substantially in the form of Exhibit L to the Participation Agreement.