8 50 (7) New No.

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

ROBERT W. ALVORD
ALBERT H. GREENE
CARL C. DAVIS*
CHARLES T. KAPPLER
JOHN H. DOYLE
MILTON C. GRACE*
GEORGE JOHN KETO**
RICHARD N. BAGENSTOS

* NOT A MEMBER OF D.C. BAR
** ALSO A MEMBER OF OHIO BAR

LAW OFFICES
ALVORD AND ALVORD
200 WORLD CENTER BUILDING
918 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

OF COUNSEL
JESS LARSON
JOHN L. INGOLDSBY
URBAN A. LESTER

CABLE ADDRESS
"ALVORD"

TELEPHONE
AREA CODE 202
393-2266

TELEX
440348 CDAA UI

13322
RECORDATION NO. ..... Filed 1425

NOV 13 1981 - 1 55 PM

INTERSTATE COMMERCE COMMISSION

November 13, 1981

1-317A070

Ms. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, D.C.

No. NOV 13 1981
Date .....
Fee $ 50.00
ICC Washington, D. C.

FEE OPERATION

RECEIVED
NOV 13 1 45 PM '81

Dear Madam:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11303 and the regulations thereunder, as revised, are the original and counterparts of an Equipment Lease dated as of November 12, 1981.

The foregoing is a "Primary Document" as defined in 49 C.F.R. §1116.1(a).

A general description of the railroad equipment covered by the enclosed document is set forth in Schedule A attached to this letter and made a part hereof.

The names and addresses of the parties to the enclosed document are:

Lessor: Chromalloy Leasing, Inc.
120 South Central Avenue, Suite 1505
St. Louis, Missouri 63105

Lessee: Richmond Leasing Company
1700 West Loop South
Houston, Texas 77027

Kindly refer to the above for the "Short Summary" information required pursuant to the provisions of 49 C.F.R. §1116.3(d)(8).

The undersigned is authorized agent for the Lessor for the purpose of submitting the enclosed document for recordation.

Very truly yours,

Charles T. Kappler

Please return the original and counterparts of the enclosed document not needed for recordation purposes to Charles T. Kappler, Esq., Alvord and Alvord, 918 Sixteenth Street, Northwest, Washington, D.C. 20006 or to the bearer hereof.

Also attached is a remittance in the amount of $50.00 covering the required recordation fee.

Very truly yours,

ALVORD AND ALVORD

By Charles T. Kappler
Charles T. Kappler

SCHEDULE A

Chromalloy Leasing, Inc.

One hundred fifty-one (151) 100-ton 4750 cubic foot covered hopper cars bearing the following identifying numbers:

DR 10083 - 10192, both inclusive

KBSR 500001 - 500009, both inclusive
500117
500118

RTMX 8556 - 8585, both inclusive

13322
RECORDATION NO. Filed 1425
NOV 13 1981 -1 55 PM
INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

dated as of November 12, 1981

between

CHROMALLOY LEASING, INC.

as Lessor

and

RICHMOND LEASING COMPANY

as Lessee

EQUIPMENT LEASE

THIS AGREEMENT CONTAINS APPRAISAL PROVISIONS WHICH IF HELD TO BE ARBITRATION PROVISIONS PURSUANT TO THEIR TERMS (AND SUBJECT TO THE LAWS OF TEXAS) WILL BE SUBJECT TO ARBITRATION UNDER THE TEXAS GENERAL ARBITRATION ACT (ARTICLE 224 THROUGH 238-6, REVISED CIVIL STATUTES OF TEXAS).

EQUIPMENT LEASE

THIS EQUIPMENT LEASE, dated as of November 12, 1981 (the "Lease"), is entered into between CHROMALLOY LEASING, INC. (the "Lessor") and RICHMOND LEASING COMPANY (the "Lessee").

W I T N E S S E T H:

Section 1 Definitions, Construction of References

In this Lease, unless the context otherwise requires:

(a) All references to designated Sections and other subdivisions (other than Sections and other subdivisions of the Code) are to designated Sections and their subdivisions of this Lease, and the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Section or other subdivision;

(b) The terms defined in this Section 1 or elsewhere in this Lease shall have the meanings assigned to them in this Section 1 or elsewhere and include the plural as well as the singular;

(c) Except as otherwise indicated, all the agreements or instruments hereinafter defined shall mean such agreements or instruments as the same may from time to time be

supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof;

(d) The following terms shall have the following meanings for all purposes of this Lease;

(1) "Appraisal" shall mean a determination of the amount in question in accordance with the provisions hereof by a qualified independent appraiser selected by mutual agreement of the Lessor and the Lessee or, failing such agreement, by a panel of three qualified independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third by the first two selected. If no appraiser can be agreed upon by the first two appraisers, such appraiser shall be selected in accordance with the rules for commercial arbitration of the American Arbitration Association. The appraisers shall be instructed to make such determination within a period of 20 days following their appointment, and shall promptly communicate their determination in writing to the Lessor and the Lessee. The determination so made by the sole appraiser or by a majority of the appraisers, as the case may be, shall be final and binding on both the Lessor and the Lessee. If each appraiser makes a different determination, the determination that differs most from the other two shall be excluded, the remaining

two appraisals shall be averaged, and such average shall be final and binding on both the Lessor and the Lessee. All fees and expenses incurred in connection with the appraisal shall be paid by the Lessee.

(2) "Basic Rent", "Basic Rent Commencement Date", "Basic Rent Dates", "Interim Rent", "Rent" and "Supplemental Rent" shall have the meanings set forth in Section 3 hereof.

(3) "Casualty Value" shall have the meaning with respect to each Item of Equipment as set forth in Exhibit A.

(4) "Closing Date" shall have the meaning set forth in Section 1(b) of the Participation Agreement.

(5) "Expiration Date" shall mean the fifteenth anniversary of the Basic Rent Commencement Date.

(6) "Business Day", "Code", "Guarantor", "KBSR Lease", "Hooper-Myron Lease", "Lender", "Letter of Credit", "Notes", "Owner's Cost", "Purchase Documents", "Regulations", and "Security Agreement" and "Texasgulf Lease" shall have the meanings set forth in the Participation Agreement.

(7) "Equipment", "Item" and "Item of Equipment" shall have the meanings set forth in Section 2 hereof.

(8) "Fair Market Value" of an Item of Equipment shall mean the purchase price which would be obtainable

in an arm's-length transaction between an informed and willing purchaser (other than a used equipment dealer) and an informed and willing seller neither of whom are under any compulsion to buy or sell, and in such determination costs of removal from the location of current use shall not be a deduction from such amount and the most valuable alternative uses in the hands of such purchaser including, without limitation, the further leasing of such Item of Equipment, shall be taken into account in making such determination. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Value with respect to a particular Item of Equipment, such Fair Market Value shall be determined in accordance with the procedure for Appraisal.

(9) "Income Tax Indemnity Agreement" means that certain Income Tax Indemnity Agreement dated as of the date hereof set forth in Exhibit C hereto.

(10) "Overdue Rate" shall mean 18.875% per annum, simple interest.

(11) "Participation Agreement" shall mean the Participation Agreement, dated as of the date hereof, among the Lessee, the Lessor, the Guarantor and the Lender.

Section 2 Lease of Equipment

Effective on and as of the Closing Date, the Lessor, as legal owner and tax owner, hereby leases to the Lessee, and the Lessee hereby leases from the Lessor, upon the terms and conditions hereinafter set forth, the items of railroad rolling stock described in Exhibit B hereto (individually, an "Item" or "Item of Equipment" and collectively, the "Equipment").

The Lessee hereby unconditionally accepts the Equipment for lease under this Lease and, in so doing, represents, warrants and agrees on and as of the Closing Date that each Item has been found to be in good order and condition and meets the standards then in effect under the applicable rules of all governmental agencies and other organizations with jurisdiction over such Item and the applicable standards then in effect for such Item under the interchange rules of the Association of American Railroads.

Section 3 Term and Rent

(a) Term. The term of this Lease as to each Item of Equipment shall begin on the Closing Date and shall end on the Expiration Date, unless this Lease shall have been earlier terminated.

(b) Interim Rent. The Lessee shall pay to the Lessor as "Interim Rent" for each Item of Equipment subject to this Lease one (1) payment which shall be in an amount equal

to the product of: (x) the Owner's Cost times (1) 1% above the "Prime Rate" on the Closing Date divided by 365 times (2) the number of days from and including the Closing Date to and including the "Basic Rent Commencement Date."

"Prime Rate" shall mean the rate of interest most recently announced at the principal office of Wells Fargo Bank, N.A. in San Francisco as its prime rate.

"Basic Rent Commencement Date" shall mean January 4, 1982.

(c) Basic Rent. The Lessee shall pay to the Lessor as "Basic Rent" for each Item of Equipment subject to this Lease thirty (30) consecutive semi-annual installments, each of which shall be in an amount equal to 7.5627% of the Owner's Cost.

(d) Payment Dates.

(i) Interim Rent for each Item of Equipment shall be due and payable on the Basic Rent Commencement Date.

(ii) The installments of Basic Rent for each Item of Equipment shall be due and payable on the 5th day of each July and January during the term hereof commencing July 5, 1982 and with a final payment due on January 5, 1997 ("Basic Rent Dates"). If any of the Basic Rent Dates is not a Business Day, the rent payment otherwise payable on such date shall be payable on the next succeeding Business Day.

(e) Other Payments. The Lessee shall pay to the Lessor as supplemental rent the following amounts (herein referred to as "Supplemental Rent" and, together with all Interim Rent and Basic Rent, as "Rent"):

(1) on demand, any amount payable hereunder (other than Interim Rent, Basic Rent and Casualty Value) which the Lessee assumes the obligation to pay, or agrees to pay, under this Lease to the Lessor or others;

(2) on the dates provided herein, any amount payable hereunder as Casualty Value;

(3) to the extent permitted by applicable law, interest (computed on the basis of a 360-day year of twelve 30-day months) at the Overdue Rate on any payment of Interim Rent, Basic Rent or Casualty Value, not paid when due for any period during which the same shall be overdue and on any payment of Supplemental Rent (excluding Casualty Value) not paid when demanded hereunder for the period from the date of such demand until the date on which the same shall be paid;

(4) all amounts as and when due under the Participation Agreement.

(f) Manner of Payment. All payments of Rent hereunder shall be made so that the Lessor, or any assignee of the Lessor, shall have immediately available funds on the date payable hereunder, and shall be paid to the Lessor at its

address set forth herein or at such other address as the Lessor may direct by notice in writing to the Lessee.

Section 4 Net Lease, Assignment by Lessor

(a) Net Lease. This Lease is a net lease and the Lessee acknowledges and agrees that the Lessee's obligations to pay all Rent hereunder, and the rights of the Lessor and its assignee in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment ("Abatement") for any reason whatsoever, including, without limitation, any Abatement due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise, or against the manufacturer or seller of any Item of Equipment. Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective rights and obligations of the Lessor or the Lessee be affected, by reason of any defect in or damage to, or any loss or destruction of, the Equipment or any Item thereof from any cause whatsoever, or the interference with the use thereof by any private person, corporation or governmental authority, or the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law or regula-

tion to the contrary notwithstanding, it being the express intention of the Lessor and the Lessee that all Rent payable by the Lessee hereunder shall be, and continue to be, payable in all events unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

(b) Assignment by Lessor. The Lessor shall have the right to mortgage the Equipment or assign pursuant to the Security Agreement or other separate form of assignment, all or any part of its rights, subject to Section 9 of the Participation Agreement, and the rights and leasehold interest of the Lessee under this Lease. In such event, each assignee shall be entitled to enforce the rights so assigned, but shall be under no liability to the Lessee to perform any of the obligations of the Lessor. The Lessee agrees that it will pay all sums so assigned and due by the Lessee hereunder directly to such assignee (or to whomsoever the assignee shall direct) after receipt of notice of such assignment. Any assignee of Lessor's rights may reassign such rights with the same force and effect as, but to no greater extent than, an original assignment.

Section 5 Return of Equipment

Upon termination of the lease term hereunder of any Items of Equipment, and unless such Items shall be acquired by the Lessee pursuant to the provisions of Sections 16(a) or

16(b) hereof, or shall be subject to an Event of Loss, the Lessee shall forthwith deliver possession of the Items to the Lessor (or to a person designated by the Lessor) in the same condition as when received, ordinary wear and tear excepted, and in good order, repair and operating condition. Such Items shall then meet the standards then in effect under the applicable rules of all governmental agencies and other organizations with jurisdiction over such Items and the applicable standards then in effect for such Items under the interchange rules of the Association of American Railroads and be in at least the same condition as other railroad rolling stock owned or leased by the Lessee, which is of comparable age and type and does not carry cargo which is corrosive or more abrasive than phosphates, detergents, soda ash, grain or clay. For the purposes of delivering possession of any Items of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(i) Forthwith place such Items upon such storage tracks or at such storage facilities as the Lessor and the Lessee may agree, or in the absence of such agreement, at the Lessor's option, either (A) upon storage tracks or facilities in the immediate vicinity of Houston, Texas or (B) upon such storage tracks or at such storage facilities at such other or additional locations as the Lessor may designate for the return of Items of

Equipment; provided, however, that if the Lessor designates any other or additional locations, the Lessor shall pay all mileage charges on rail mileage for all Items being returned to such designated location in excess of an aggregate allowance equal to 500 rail miles per Item between the location of such Item within the continental United States upon final termination of the lease term hereunder and the location so designated by the Lessor for such return;

(ii) Arrange for the Lessor to store such Items on such tracks or storage facilities at the sole cost, expense and risk of the Lessee during the first ninety (90) days of any storage period or until such Items have been sold, leased or otherwise disposed of by the Lessor, whichever first occurs, provided that the Lessee will use its best efforts to arrange for storage at such locations or for other suitable storage elsewhere, at the sole cost, expense and risk of the Lessor for a longer period, as to any Items not sold, leased or otherwise disposed of by the Lessor within such initial ninety (90) day period.

Except as above provided, the removal, assembling, delivery, storage and transporting of the Items as hereinabove provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application by the Lessor to any court of equity having jurisdiction, the Lessee

shall not raise any defense to that court's entering a decree against the Lessee requiring specific performance of the covenants of the Lessee so to remove, assemble, deliver, store and transport the Items. During the first ninety (90) days of any storage period, the Lessee shall maintain insurance on the Items of Equipment in accordance with Section 12 hereof and shall upon notice permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessor of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence or misconduct of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser or lessor, the rights of inspection granted under this sentence.

Any such Item shall be returned in the condition in which such Item is required to be maintained pursuant to Section 9 hereof. Each Item, upon redelivery pursuant hereto, shall be free and clear of all mortgages, liens, security interests, charges, encumbrances and claims ("Liens"), other than Liens resulting from voluntary action by the Lessor without the prior approval of the Lessee and Liens described in Section 7(g) of the Participation Agreement (such Liens being herein referred to as "Lessor's Liens").

Without in any way limiting the obligation of the

Lessee under the foregoing provisions of this Section 5, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Item to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be in possession of such Item at the time.

Section 6 Covenant of Quiet Enjoyment; Disclaimer of Lessor's Warranties

The Lessor covenants that during the term of this Lease, so long as no Event of Default has occurred and is continuing, neither the Lessor or anyone claiming by, through or under the Lessor directly or indirectly, shall have a legal right to interfere with the Lessee's quiet use and enjoyment of the Equipment pursuant to this Lease.

THE LESSOR LEASES THE EQUIPMENT AS-IS AND HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE TITLE, DESIGN OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, NOR

SHALL THE LESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT), but the Lessor authorizes the Lessee, at the Lessee's expense, to assert for the Lessor's account, during the term of this Lease, so long as no Event of Default shall have occurred hereunder and be continuing, all of the Lessor's rights under any applicable manufacturer's or seller's warranty, patent and other agreements and the Lessor agrees to cooperate with the Lessee in asserting such rights; provided, however, that the Lessee shall indemnify and shall hold the Lessor harmless from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by the Lessor in connection with, as a result of, or incidental to any action by the Lessee pursuant to the above authorization, any amount received as payment under any such warranty, patent or other agreements shall be payable to the Lessor and, if no Event of Default has occurred and is continuing hereunder, such amount shall be applied (i) if the breach of agreement resulted in defects or deficiencies in the Equipment, to restore, or as reimbursement to the Lessee for the restoration of, the Equipment to the condition required by Section 9 hereof and if any excess funds are available after application as set forth in clause (i), then (ii) if such breach resulted in other loss, including loss of income to the Lessee or any expense or liability, to pay any such loss, expense or liability or as

reimbursement to the Lessee for any payments of that nature made or losses incurred by the Lessee, and (iii) the balance to the Lessor.

Section 7 Liens

The Lessee will not mortgage, encumber or directly or indirectly create, incur, assume or suffer to exist any Liens on or with respect to the Equipment, title thereto or any interest therein (and the Lessee will promptly, at its own expense, take such action as may be necessary to discharge any such Lien), except (a) the respective rights of the Lessor and the Lessee under this Lease and the Participation Agreement and under subleases made by the Lessee, as herein provided, (b) Lessor's Liens, (c) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings, but the Lessee will promptly, at its own expense, discharge any such Lien being contested if, in the Lessor's reasonable opinion, the continued existence of such Lien adversely affects the title, property or rights of the Lessor or the security interest of the Lender under the Security Agreement, (d) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business of the Lessee and not delinquent, and (e) Liens granted by the Lessor to any assignee or security assignee of the Lessor including the Lender.

Section 8 Taxes

(a) Except as provided in part (b) of this Section, the Lessee agrees to pay when due and to indemnify the Lessor and the Lender, as their respective interests may appear for, and hold the Lessor and the Lender harmless from and against, all income, franchise, sales, use, personal property, ad valorem, value added, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges or withholdings of any nature, licensing or registration fees, together with any penalties, fines or interest thereon or reasonable attorneys' fees incurred by the Lessor and the Lender with respect thereto ("Impositions"), arising out of the transactions contemplated by this Lease and imposed against the Lessor, the Lender, the Lessee or the Equipment by any federal, state, local or foreign government or taxing authority upon or with respect to the Equipment, including the sale, purchase, ownership, delivery, leasing, subleasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon or with respect to this Lease. So long as the Lessee has complied with Section 7 hereof, the Lessee may contest any Imposition, at its own expense, if it shall have given to the Lessor written notice 30 days prior to the date for payment of any such Imposition, which notice shall state that such Imposition is being contested by the Lessee in good faith and

by appropriate proceedings; provided that if independent counsel for the Lessor or the Lender (who may be the Lessor's regularly or the Lender's retained general counsel) determines at any time (the Lessee hereby agreeing to pay all reasonable fees and expenses of such counsel) that the nonpayment thereof or the contest thereof in such proceedings in the reasonable opinion of such counsel adversely affects the title, property or rights of the Lessor, or the security interest of the Lender under the Security Agreement, the Lessor or the Lender may require the Lessee to pay such Imposition. All amounts payable by the Lessee under this Section 8 shall be payable, to the extent not theretofore paid, on written demand of the Lessor or the Lender. If a claim is made against the Lessee, the Lender or the Lessor for any Imposition, the party receiving notice of such claim shall promptly notify the other but the giving of such notice shall not be a condition to the Lessee's obligations under this Section 8. In case any report or return is required to be made, whether in the name of the Lessor, the Lender or the Lessee (including, without limitation, all state and local sales, use and property tax returns) with respect to any obligation of the Lessee under this Section 8 or arising out of this Section 8, the Lessee will either (after notice to the Lessor) make such report or return in such manner as will show the ownership of the Equipment in the Lessor or will notify the Lessor of such

requirement and make such report or return in such manner as shall be satisfactory to the Lessor. The Lessor and the Lender agree to co-operate fully with the Lessee in (a) the preparation of any such report or return and (b) provided the Lessee shall pay all costs and expenses of the Lessor, any contest contemplated in this Section 8.

(b) The Lessee's obligations to the Lessee under paragraph (a) of this Section 8 shall not apply to:

(1) Impositions on, based on, or measured by the net income of the Lessor (including net income of the Lessor arising from a sale or other disposition of the Equipment) and imposed by the United States;

(2) Impositions on, based on, or measured by the net income of the Lessor (including net income of the Lessor arising from a sale or other disposition of the Equipment) (A) imposed by the state or any local government or taxing authority within the state in which the Lessor's principal office is or may hereafter be located or (B) imposed by any other state or local government or taxing authority, but only to the extent that payment of such Impositions to such other state or local government or taxing authority reduces Impositions payable by the Lessor to the state or any local government or taxing authority within the state in which Lessor's principal office is or may hereafter be located.

(3) Impositions incurred solely by reason of (A) any voluntary transfer by the Lessor or (B) any involuntary transfer resulting from any exercise by any creditor of the Lessor (other than the Lessee with respect to its rights under this Lease or any person claiming any rights through the Lessee with respect thereto) of such creditor's rights to any interest in the Equipment or any portion thereof or the Lease at a time when such Equipment is leased under the Lease and no Event of Default (or other event which with the lapse of time or the giving of notice or both would constitute an Event of Default) has occurred and is continuing; excluding, however, (C) any transfer pursuant to Section 11 of the Lease unless the Lessee has paid in full the Casualty Value as required by Section 11 and all other amounts due pursuant to Section 11, and (D) any transfer pursuant to Section 18 of the Lease.

(4) Impositions on the excess of any net insurance proceeds, condemnation payments, damages or other amounts over Casualty Value retained by the Lessor under Section 11 of the Lease;

(5) Impositions incurred solely by reason of any event occurring after the return of the Equipment at or after the end of the term of the Lease, or as terminated pursuant to Section 11 of the Lease; and

(6) Impositions to the extent the Lessor's gross negligence or willful misconduct causes, or deprives the Lessee of legal rights to avoid or reduce, the same.

The Lessee's obligations to the Lender under paragraph 8 (as shall exclude impositions of the Lender corresponding to those in clauses (1)(b) above.

If the Lessor as the Lender is indemnified by the Lessee with respect to an Imposition as provided in this Section 8 and as a direct result thereof the tax liability of the Lessor or the Lender is reduced in the year of payment or any subsequent year, the Lessor or the Lender (as the case may be) shall pay the Lessee the sum of (i) the amount by which the Lessor's or the Lender's tax liability has been so reduced and (ii) any reduction in the Lessor's or the Lender's tax liability attributable to the deduction of the amount described in this sentence; provided, however, that the total of such payments by the Lessor shall not exceed the total of the indemnity payments made by the Lessee in respect of such Imposition and no such amount shall be payable to Lessee at any time when an Event of Default (or any event which with the lapse of time or the giving of notice or both would become an Event of Default) has occurred and is continuing.

No amount shall be payable under paragraph (a) of this Section to the extent any payment of Casualty Value by the Lessee has indemnified the Lessor for any amount otherwise

payable pursuant to this Section. If the Lessee makes both an indemnity payment with respect to an Imposition under this Section and also makes a payment of Casualty Value, then in such event an appropriate adjustment shall be made, if necessary, to prevent duplication of payment by the Lessee for such Imposition.

(c) The amount of each indemnity payable by the Lessee under this Section shall be an amount which, after taking into account all Impositions imposed with respect to the receipt of such indemnity by the Lessor or any payment by the Lessee for the Lessor's account (as the same may be increased under this sentence) and any deductions or credits attributable to the Impositions for which the indemnity payment has been made, shall be equal to the amount of such indemnity.

Section 9 Use, Location, Maintenance and Operation; Identifying Marks

(a) The Lessee agrees that the Equipment will be used, and when redelivered upon the expiration or earlier termination of this Lease will be in compliance with any and all statutes, laws, ordinances and regulations of any governmental agency and the interchange rules of the Association of American Railroads or its successor applicable to the use of the Equipment, and, subject to the provisions of Section 14 hereof, will at all times be used solely in the conduct of its

business and be and remain in the possession and control of the Lessee. The Lessee agrees that no Item of Equipment will be used predominantly outside the United States, within the meaning of Section 48(a)(2) of the Code, and that the Equipment as a whole will not be used outside the continental United States other than for de minimis use in Canada and Mexico unless the Lessee shall first obtain the Lessor's and Lender's written consent, which shall not unreasonably be withheld. The Lessor or the Lender may condition their consent on, among other things, (i) the Lessee's executing and filing at the Lessee's expense any documents necessary to perfect, protect and preserve in the appropriate jurisdictions, in the reasonable opinion of the Lessor and the Lender, the title of the Lessor to, and the security interest of the Lender in, such Item of Equipment and (ii) the Lessee's reporting the extent of such foreign use to the Lessor. Throughout the term of this Lease, the possession, use and maintenance of the Equipment shall be at the sole risk and expense of the Lessee.

(b) The Lessee shall cause the Items of Equipment to be used only in the manner for which they were designed and intended and will, at its own cost and expense, install or otherwise provide all mechanisms, modifications and improvements required for the Equipment to be in compliance with Section 9(a) hereof and the Lessee will repair and maintain

each Item of Equipment so as to keep it in as good condition as when delivered to the Lessee hereunder, ordinary wear and tear excepted, and in good working order. No Item of Equipment shall be used to transport commodities that are hazardous within the meaning of United States Department of Transportation Tariff No. BOE 6000, or, unless the Lessee shall first take all necessary measures to assure protection of the Item from its cargo, commodities that are corrosive or more abrasive than phosphates, detergents, soda ash, grain or clay.

(c) The Lessee will not, without the prior written consent of the Lessor, affix or install any accessory, equipment or device on any Item of Equipment leased hereunder which (i) will impair the originally intended function or use of any such Item, (ii) will adversely affect the commercial value of any such Item, or (iii), except as required by Section 9(b) hereof, is not readily removable without impairing the original commercial value or utility of such Item. The Lessee agrees that any nonremovable addition to the Equipment which has been furnished, attached or affixed to any Item shall upon attachment or affixation become the property of the Lessor and thereupon all such accessories, equipment and devices shall become a part of the Equipment leased hereunder and be subject to the lien granted by the Lessor in financing the Owner's Cost of the Equipment. The Lessee agrees that each such Item is, and shall continue to be throughout the term of this

Lease, personal property under applicable law and the Lessee agrees to take such action as shall be required from time to time by the Lessor to protect the Lessor's title to each such Item and the right of the Lessor to remove the same.

(d) The Lessee agrees, at its own cost and expense, to:

(1) cause each Item of Equipment to be kept numbered with the marks and numbers specified in Exhibit B therefor or with the marks and numbers of any sublessee or user thereof provided the Lessee will not change the marks and numbers of any Item of Equipment except in accordance with a statement of new marks and numbers to be substituted therefor, which statement previously shall have been delivered to the Lessor and the Lender by the Lessee and filed, recorded or deposited in all public offices where this Lease or the Security Agreement shall have been filed, recorded or deposited;

(2) keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height to the effect that the Equipment is subject to interests recorded with the Interstate Commerce Commission and containing such specific provisions as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee; and

(3) keep and maintain such other markings as from time to time may be required by law or otherwise deemed necessary by the Lessor in order to protect the title of the Lessor to such Item of Equipment, the rights of the Lessor under this Lease and the lien granted by the Lessor in financing the Owner's Cost of the Equipment.

The Lessee will not place any Item of Equipment in operation or exercise any control or dominion over the same until the requirements of this Subsection 9(d) have been met.

Section 10 Inspection

The Lessor shall have the right, but not the duty, to inspect the Equipment. Upon the request of the Lessor, the Lessee shall inform the Lessor of the last known location and the user of each Item of Equipment and shall, at any reasonable time, and as to Items in the possession of the Lessee, make such Items and the Lessee's records, including copies of all subleases pertaining to the Equipment, available to the Lessor for inspection at such location. As to any Items subleased or rented by the Lessee to others, the Lessee will, within a reasonable time, make arrangements for the Lessor to inspect such Items and will use its best efforts to make the user's records pertaining to such Items available to the Lessor in a manner which does not interfere with the usage of such Items by the Lessee's subleasing or rental customer.

Section 11 Loss or Destruction; Requisition of Use

(a) The Lessee agrees that it shall use reasonable diligence to ascertain, promptly report to the Lessor and keep the Lessor currently apprised of all important facts and circumstances concerning the Equipment, including whether any Item of Equipment shall be or become destroyed, lost, stolen or permanently rendered unserviceable for any reason whatsoever, or title thereto shall be requisitioned or otherwise taken by any governmental authority under power of eminent domain or otherwise ("Requisition of Use"). On an annual basis on or before February 28, the Lessee will provide the Lessor with a written report specifying those Items of Equipment that are out of service for repairs at December 31 or have been outside the United States for more than 180 days during the calendar year.

(b) Within sixty (60) days after the Lessee's report required under Section 11(a) the Lessee shall determine and notify the Lessor whether an Item of Equipment that is out of service for repair can be repaired within six (6) months from the date of such notice ("Repair Period").

(c) In the event that a damaged Item cannot be repaired or is not repaired within the Repair Period or in the event of destruction, loss, theft, unserviceability Requisition of Use by a foreign government for any period in excess of thirty (30) days or Requisition of Use by the United States or

any political subdivision therof for a stated period which exceeds the remaining term of this Lease or for an unstated period which exists for more than one (1) year or until after the Expiration Date (any of such occurrences being referred to as an "Event of Loss"), the Lessee shall promptly notify the Lessor of such Event of Loss. On the Basic Rent Date next following the date of such Event of Loss (or, if the Event of Loss occurs before the Basic Rent Commencement Date, on the Basic Rent Commencement Date), the Lessee shall pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date or the Basic Rent Commencement Date, together with the full payment of Rent and any other amounts then due with respect to such Item of Equipment. In the event the Lessee determines that a damaged Item can be repaired, the Lessee shall continue to make all payments of Rent due with respect to such Item and shall cause such Item to be repaired or return such Item to the manufacturer for repair within the Repair Period, provided, that if the Lessee shall fail to repair such Item within the Repair Period, the Lessee shall, on the Basic Rent Date next following the end of the Repair Period, pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date or the Basic Rent Commencement Date, together with the full payment of Rent and any other amounts then due with respect to such Item of Equipment. If such time is after the Expiration Date the

Casualty Value shall be paid at the end of the Repair Period and the Lessee shall pay the Lessor interest at the Overdue Rate on an amount equal to the Casualty Value, as of the Expiration Date, from the Expiration Date to the date the Casualty Value is paid. If the Item to be repaired is repaired within the time period allowed and is returned to the Lessor after the Expiration Date therefor, at the time of such return the Lessee shall pay the Lessor interest at the Overdue Rate on an amount equal to the Fair Market Value of such Item from the Expiration Date of the Item to the date of its return to the Lessor. Upon making such Casualty Value payment and the full payment of Rent and any other amounts then due with respect to such Item of Equipment, the Lessee's obligation to pay further Rent for such Item shall cease. The Lessor shall be entitled to recover possession of such Item, unless possession of such Item is required to be delivered to an insurance carrier providing insurance with respect to the Item in order to settle an insurance claim arising out of the Event of Loss. Except as provided in Subsection (d) hereof, the Lessor shall be entitled to retain any salvage value realized other than amounts to which an insurance carrier is subrogated. The Lessor shall be under no duty to the Lessee to pursue any claim relating to the Event of Loss or against any governmental authority, but the Lessee may at its own cost and expense pursue the same on behalf of the Lessor in such manner as may be reasonably satisfactory to the Lessor.

(d) Following making of the Casualty Value payment and the full payment of Rent and any other amounts then due with respect to an Item of Equipment in accordance with the provisions of Section 11(c), the Lessee shall, as agent for the Lessor, dispose of such Item as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "AS-IS", "WHERE-IS" basis without representation or warranty, express or implied. Regardless of whether an Item suffering an Event of Loss shall be disposed of finally by a sale, surrender to an insurance carrier, as salvage or abandonment, the Lessor and the Lessee agree that whatever proceeds, including without limitation proceeds from insurance, from a manufacturer or supplier and claims against third parties, which may be realized relating to the Event of Loss, provided the Lessee has paid the Lessor the amounts it is required to pay under this Section and no Event of Default or other event which, with lapse of time or the giving of notice, or both would constitute an Event of Default, has occurred and is continuing under this Lease, shall be paid to and retained by the Lessee up to the sum of (i) the Casualty Value of such Item or the amount payable to the Lessee as the lessor under any Sublease of the Item, whichever is greater, and (ii) the Lessee's reasonable costs and expenses of disposition or obtaining such proceeds, and the excess, if any, shall be paid to the Lessor.

(e) The Lessee shall bear the risk of loss and shall not be released from its obligations hereunder in the event of any damage or Event of Loss to any Item of Equipment after acceptance by the Lessee hereunder.

(f) In the case of a Requisition of Use of any Item of Equipment for a stated period which does not exceed the remaining term of this Lease of such Item, such Requisition of Use shall not terminate this Lease with respect to such Item, and each and every obligation of the Lessee with respect thereto shall remain in full force and effect. So long as no Event of Default shall have occurred and be continuing under this Lease, the Lessee shall be entitled to all sums received by reason of any such Requisition for Use.

Section 12 Insurance

The Lessee will at all times on and after the Closing Date, at its sole expense, keep or cause to be kept public liability and property damage insurance with respect to each Item of Equipment and "all risks" insurance against loss or damage to each Item of Equipment. All such insurance shall be in amounts (including deductible amounts) acceptable to the Lessor and shall be written by an insurance company or companies satisfactory to the Lessor and the Lender, shall be satisfactory in form and content to the Lessor and the Lender, shall cover the interest of the Lessor and the Lender in the

Items, as their interests may appear, and shall protect the Lessor and the Lender in respect of "all risks" relating to the Equipment, its ownership and use. All liability policies shall include the Lessor and the Lender as additional named insureds. All policies required hereby covering loss or damage to any Item shall include the Lessor as an additional named insured and the Lender as loss payee and shall provide that any payment thereunder for any loss or damage shall (except as provided below) be made to the Lender and the Lessor, as their interests may appear, payment to the Lender to be made under a standard loss payable clause satisfactory to the Lessor and the Lender and shall provide that the insurer thereunder waives all rights of subrogation against the Lessor and the Lender, and that such insurance as to the interests of the Lessor and the Lender therein shall not be invalidated by breach of any representation, declaration or condition or any act or neglect of the Lessor, the Lessee or the Lender or by any foreclosure or other remedial proceedings or notices thereof relating to the Items or any Items or any interest therein nor by any change in the title or ownership of the Item or any interest therein or with respect thereto, or by the use or operation of the Items for purposes more hazardous or in a manner more hazardous than is permitted by such policy. No such policy shall contain a provision relieving the insurer thereunder of liability for any loss by

reason of the existence of other policies of insurance covering the Items against the risks involved, whether collectible or not. If no Event of Default or other event which, with lapse of time or the giving of notice, or both, would constitute an Event of Default has occurred and is continuing hereunder, all proceeds of insurance received by the Lessor and the Lender with respect to any Items of Equipment not suffering an Event of Loss shall be paid to the Lessee upon proof satisfactory to the Lessor and the Lender that any damage to any Item with respect to which such proceeds were paid has been fully repaired and the Item has been restored to the condition required hereunder. Any such proceeds of insurance received by the Lessor and the Lender with respect to an Event of Loss shall be credited toward the payment required by this Lease with respect to an Event of Loss. The Lessee shall upon request of any such party, allow the Lender and the Lessor an opportunity to read and review the insurance policies required hereunder and shall furnish each of such parties certificates or other satisfactory evidence of maintenance of the insurance required hereunder and, with respect to any renewal policy or policies, shall furnish certificates evidencing such renewal not less than thirty (30) days prior to the expiration date of the original policy or renewal policies. All such policies shall provide that the same shall not be cancelled or materially altered

without at least thirty (30) days prior written notice to each insured named therein.

The certificates or other evidence of insurance presented on the Closing Date and approved by the Lessor and Lender, as evidenced by the Lessor's purchase of the Equipment on such date and the Lender's making of the loan, may specify policy limits, deductible amounts and policy provisions less favorable than the insurance actually carried by the Lessee. The policy limits, deductible amounts and policy provisions stated in the certificates or other evidence of insurance delivered and approved by the Lessor and the Lender on the Closing Date, shall establish for the term of this Lease, the minimum level of insurance coverage required by the terms of this Section.

The Lessee and the Lessor agree that, if according to any generally accepted industry standard for owners and lessors of railroad rolling stock similar to the Equipment, broader insurance coverage has become appropriate, the insurance coverage in this Lease will be modified to conform to this standard.

Section 13 Indemnification

Except as otherwise provided herein, the Lessee agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor, the

Lender and their respective agents, employees, shareholders, officers and directors from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability), actions, suits, costs, expenses and disbursements (including, without limitation, reasonable legal fees and expenses) of any kind and nature whatsoever ("Claims") which may be imposed on, incurred or asserted against the Lessor or such persons, whether or not the Lessor or such persons shall also be indemnified as to any such Claim by any other persons, in any way relating to or arising out of this Lease or any document contemplated hereby or by the performance or enforcement of any of the terms hereof or thereof, or in any way relating to or arising solely out of the Equipment, including without limitation, the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, sublease, possession, use, operation, maintenance, condition, registration, sale, return, storage or disposition of any Item of Equipment or any accident in connection therewith (including, without limitation, latent and other defects, whether or not discoverable, and any Claim for patent, trademark or copyright infringement); provided, however, that the Lessee, shall not be required to indemnify the Lessor or such persons with respect to (a) any Claim in respect of any Item of Equipment arising solely from acts or events which

occur after possession of such Item of Equipment has been redelivered to the Lessor and the ninety (90) day free storage period has expired or after this Lease has been terminated pursuant to Section 11 hereof as to Items in respect of which the Claim arises, or (b) any Claim of such indemnified party resulting from the willful misconduct or gross negligence of such party or default by such party under this Lease, the Participation Agreement, the Security Agreement or Notes. To the extent that the Lessor or such persons in fact receive indemnification payments from the Lessee under the indemnification provisions of this Section 13, the Lessee shall be subrogated, to the extent of such indemnity paid, to the Lessor's rights with respect to the transaction or event requiring or giving rise to such indemnity. The Lessee agrees that the Lessor shall not be liable to the Lessee for any Claim caused directly or indirectly by the inadequacy of any Item of Equipment for any purpose or any deficiency or defect therein or the use or maintenance thereof or any repairs, servicing or adjustments thereto, all of which shall be the risk and responsibility of the Lessee. The rights and indemnities of the Lessee hereunder are expressly made for the benefit of, and shall be enforceable by, the Lessor (and any successor Lessor) notwithstanding the fact that the Lessor is either no longer a party to this Lease, or was not a party to this Lease at its outset. Any party indemnified hereby shall

give the party obligated to defend or indemnify it, prompt written notice of any claim or occurrence under this Section but the giving of such notice shall not be a condition to the Lessee's obligations under this Section.

Section 14 Assignment by Lessee, Subleasing, Assignment of Subleases

(a) Assignment by Lessee. Without the prior written consent of the Lessor and the Lender (while any of the Notes is outstanding), the Lessee shall not assign this Lease in whole or in part or create, incur or allow any lien, encumbrance or claim to exist with respect to the Lessee's leasehold interest hereunder.

(b) Subleasing. Except as provided in Section 14(d) and provided no Event of Default has occurred and is continuing hereunder, the Lessee shall have the right without the prior written consent of the Lessor to sublease or rent the Equipment or any Item to any other person, firm or corporation in the ordinary course of the Lessee's business. Under no circumstances shall any such sublease (a) affect the obligations of the Lessee to the Lessor hereunder, which shall be and remain those of a principal and not a guarantor. Unless the Lessor shall give its prior written consent, which may be refused in its sole discretion, no sublease shall exceed the term of this Lease for the Item subleased or

contain provisions inconsistent with this Lease and each sublease shall be expressly subject and subordinate to this Lease in all respects. No sublease, other relinquishment of the possession of any of the Equipment, or assignment by the Lessee of any of its rights hereunder done with the written consent of the Lessor shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder. Each sublease shall prohibit use of the Items subject thereto outside the continental United States without the express written consent of the Lessee; and the Lessee will require as a condition of its consent to such use within the standards of Section 9(a) hereof that the user certify in a manner satisfactory to the Lessee the extent of the usage outside the continental United States.

(c) Assignment of Subleases. As security for the payment of Rent and all other amounts due hereunder and for the payment and performance of the Lessee's obligations hereunder, the Lessee hereby assigns, transfers and sets over unto the Lessor, for security purposes, all of its right, title, interest, powers, privileges and other benefits in, to and under, and hereby grants to the Lessor a security interest in the Texasgulf Lease, the Hooper-Myron Lease and the KBSR Lease and all other presently existing or after-acquired subleases in which the Lessee is the sublessor to the extent the subleases relate to Items of Equipment (the "Subleases"). The

Lessee shall stamp or otherwise conspicuously mark all Subleases with a term exceeding one (1) year with the following legend: THIS SUBLEASE IS SUBJECT TO AN ASSIGNMENT OR ASSIGNMENTS AND THE RIGHTS OF THE PARTIES HERETO ARE SUBORDINATE TO THE RIGHTS OF THE ASSIGNEE UNDER A LEASE ON FILE WITH THE INTERSTATE COMMERCE COMMISSION.

The Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact of the Lessee, upon the occurrence and during the continuation of an Event of Default, with full power and authority in the name of the Lessee, the Lessor or either of them to demand, sue for, enforce, collect and receive and give receipt for, the Subleases (to the extent they relate to Items), any proceeds thereof or the Items and to apply the same to the Lessee's obligations under this Lease. At any time during the continuance of an Event of Default, the Lessee shall upon the written request of the Lessor, at the sole expense of the Lessee, notify the sublessees and any other party obligated to make payments in respect of the Subleases (to the extent they relate to Items) to make such payments directly to the Lessor.

This assignment is executed only as security for the obligations of the Lessee under this Lease, and therefore, the execution and delivery of this assignment shall not subject the Lessor to, transfer to the Lessor, or in any way affect or modify, the liability of the Lessee under the Subleases, it

being understood and agreed that notwithstanding this assignment or any subsequent assignment, all obligations of the Lessee to the sublessees shall be enforceable by the sublessees, their successors and assigns only against the Lessee or persons other than the Lessor.

Whenever any of the Subleases cover equipment other than the Items and the amount of any payment due to the Lessee under such Subleases as rental, hourly time charges, mileage charges or other rental revenues is calculated on an aggregate basis for all equipment leased thereunder in such a manner the amounts payable for the Items cannot readily be ascertained, an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to the Items. For the purpose hereof, "Assigned Fraction" shall mean a fraction, the numerator of which is the number of Items leased under such Sublease and the denominator of which is the aggregate number of items (including such Items) at the time leased under such Sublease.

Provided that no Event of Default or other event which with the giving of notice or passage of time or both would constitute an Event of Default shall have occurred and be continuing and with the exception of the Subleases assigned to the Lender pursuant to Section 8(m) of the Participation Agreement the Lessee shall have unrestricted discretion as the owner of the Subleases and as a contracting party thereunder

(x) to cancel, extend or renegotiate the same and manage the exercise of its legal rights and options thereunder or in connection therewith as if the Lessor had no interest in the Subleases and (y) to receive and retain all amounts payable under or in connection with the Subleases or due to the enforcement thereof.

No Sublease that is for a term of three years or more shall be effective until the Lessee shall have delivered to the Lessor (i) a duly executed original counterpart thereof or true copy thereof which shall expressly provide that it is subordinate to this Lease and that the sublessee's rights thereunder are subject to all the terms and conditions hereof; (ii) an instrument pursuant to which the Lessee assigns to the Lessor and grants it a security interest in such Sublease upon terms comparable to those set forth in the first five paragraphs of this Subsection; (iii) an acknowledgement copy of a financing statement on form UCC-1 filed in the office of the Secretary of State of the State of Texas, or such other office as may then be appropriate, with respect to the assignment of such Sublease, indicating the Lessee, as debtor, and the Lessor, as secured party, duly stamped by a filing office to indicate the date and time of filing and the filing number; (iv) evidence that such Sublease and the assignment thereof have been filed with Interstate Commerce Commission; and (v)

an opinion of counsel with respect to such filings satisfactory to the Lessor.

(d) Condition to Effectiveness of Subleases. Notwithstanding anything to the contrary elsewhere in this Section 14, during the five year period commencing on the Closing Date, the Lessee shall not sublease any Item of Equipment without the Lessor's prior written consent for a term (including any renewals thereof) in excess of five (5) years.

Section 15 Tax Indemnification

See Exhibit C attached hereto and made a part hereof the same as if set forth in full herein.

Section 16 Lessee's Call; Lessor's Put

(a) Lessee's Call. Provided that no Event of Default or occurrence which with the lapse of time or the giving of notice or both, would constitute an Event of Default, has occurred and is continuing, the Lessee shall have the option, upon written notice to the Lessor given not less than 180 days prior to the Expiration Date to acquire all, but not less than all, of the Items of Equipment subject to this Lease at the Expiration Date for a price equal to the lesser of (i) the Fair Market Value of such Items at the Expiration Date or (ii) thirty percent (30%) of the Owner's Cost of such Items; provided, that such price shall in no event be less

than twenty percent (20%) of the Owner's Cost of such Items. If the Lessee exercises its option, the Lessee shall purchase, and the Lessor shall sell, the Items on an AS-IS, WHERE-IS basis and without any representation or warranty by the Lessor, except for a warranty that each Item is free and clear of all claims, liens, security interests and other encumbrances in favor of the Lessor or any person claiming through or under the Lessor. If, on or before a date ninety (90) days prior to the Expiration Date, the Lessor and the Lessee are unable to agree on the Fair Market Value of the Items (or that the Fair Market Value exceeds thirty percent (30%) or is less than twenty percent (20%) of the Owner's Cost thereof), Fair Market Value shall be determined in accordance with the procedure for Appraisal and the Lessor and the Lessee shall sell and purchase the Items on the Expiration Date at the price so determined in accordance with this Section 16(a).

(b) Lessor's Put. If the Lessee has not exercised its option under Section 16(a) hereof, the Lessor may require the Lessee upon written notice to the Lessee given not less than ninety (90) days prior to the Expiration Date to purchase some or all of the Items of Equipment subject to the Lease at the Expiration Date at a price equal to twenty percent (20%) of the Owner's Cost of such Items. If the Lessor exercises its option, the Lessee shall purchase, and the Lessor shall sell, the Items on an AS-IS, WHERE-IS basis and without any

representation or warranty by the Lessor, except for a warranty that each Item is free and clear of all claims, liens, security interests and other encumbrances in favor of the Lessor or any person claiming through or under the Lessor.

Section 17 Events of Default

The term Event of Default, wherever used herein, shall mean any of the following events listed below (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or come about or be affected 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 government body).

(a) The Lessee or any assignee shall fail to make any payment of Rent after the same shall become due and such failure shall continue for five (5) days after written notice thereof from the Lessor to the Lessee; or

(b) The Lessee shall fail to maintain insurance in accordance with the requirements of Section 12 hereof; or

(c) The Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it under this Lease or any agreement, document or certificate delivered by the Lessee in connection herewith, and such failure shall continue for thirty (30) days after written notice thereof from the Lessor to the Lessee; or

(d) The Guarantor or the Lessee shall fail to perform or observe any covenant, condition or agreement to be performed by it under the Participation Agreement or any agreement, document or certificate delivered by the Guarantor or the Lessee in connection therewith, and such failure shall continue for thirty (30) days after written notice thereof from the Lessor to the Lessee and the Guarantor; or

(e) Any representation or warranty made by the Lessee in this Lease or by the Lessee or the Guarantor in the Participation Agreement, or in any other document (including financial statements) or certificate furnished to the Lessor in connection therewith, except the representations and warranties contained in the Income Tax Indemnity Agreement shall prove to have been incorrect in any material respect when any such representation or warranty was made or given; or

(f) The Lessee or the Guarantor becomes insolvent or generally is not paying its debts as such debts become due; or any of them applies for, consents to or acquiesces in the appointment of a trustee, custodian or receiver, or a trustee, custodian or receiver for any property of any thereof; or, in the absence of such application, consent or acquiescence, a trustee, custodian or receiver is appointed for the Lessee or the Guarantor, or for a substantial part of their respective property, and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement or other

proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding is instituted by or against the Lessee or the Guarantor and, if instituted against the Lessee or the Guarantor, is consented to or acquiesced in or remains for ninety (90) days undismissed; or

(g) Any obligation of the Lessee or the Guarantor for borrowed money the aggregate outstanding principal amount of which is in excess of $100,000, or for the payment of rent under leases of real or personal property having aggregate remaining unpaid rentals in excess of $100,000, or for the deferred purchase price of property having aggregate remaining unpaid payments in excess of $100,000, becomes or is declared to be due and payable prior to its express maturity by reason of a default by the Lessee or the Guarantor in the performance or observation of any obligation or condition; or

(h) The Lessee shall attempt to or shall in fact remove, sell, transfer, encumber, part with possession of, assign or sublet any Item of Equipment in violation of the terms of this Lease; or

(i) The Letter of Credit shall lapse during the period that the Lessee is required to maintain the Letter of Credit in effect pursuant to Section _____ of the Participation Agreement, and the Lessee shall fail to obtain a replacement Letter of Credit within 45 days after the Lessor or the Lender has given the Lessee written notice of such lapse; or

(j) A bankruptcy proceeding shall be commenced against the issuer of the Letter of Credit or a replacement Letter of Credit and the Lessee shall fail to obtain a replacement Letter of Credit within 45 days after the Lessor or the Lender has given the Lessee written notice of such proceeding.

Section 18 Remedies

Upon the happening of an Event of Default, the Lessor shall (except to the extent otherwise required by law) be entitled to:

(i) Proceed by appropriate court action or actions to enforce performance by the Lessee of the applicable covenants and terms of this Lease or to recover damages for the breach thereof;

(ii) Repossess any or all Items of Equipment without prejudice to any remedy or claim hereinafter referred to;

(iii) Elect to sell any or all Items of Equipment, after giving fifteen (15) days' notice to the Lessee, at one or more public or private sales and recover from the Lessee as liquidated damages for the Lessee's default hereunder an amount equal to the amount, if any, by which (A) the sum of (i) the aggregate Casualty Value of such Items of Equipment determined as of the rent payment date next following the date such notice is given, (ii) all

Rent owing hereunder to and including the rent payment date immediately following the date such notice is given, (iii) all reasonable costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing, restoring and selling such Items of Equipment, (iv) all other amounts owing by the Lessee hereunder and under the Income Tax Indemnity Agreement, whether as additional rent, indemnification or otherwise, and (v) all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by the Lessor as a result of the Lessee's default hereunder, exceeds (B) the amount received by the Lessor upon such public or private sales of such Items of Equipment;

(iv) Upon notice to the Lessee receive prompt payment from the Lessee of an amount equal to the aggregate Casualty Value determined as of the Rent Payment Date next following the date such notice is given of all Items of Equipment which have not been sold by the Lessor pursuant to clause (iii) above plus, to the extent not otherwise recovered from the Lessee pursuant to said clause (iii) above, (a) any Rent and other amounts owing hereunder to and including the Rent Payment Date immediately following the date such notice is given, (b) all reasonable costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing and

restoring such Items of Equipment, (c) all other amounts owing by the Lessee hereunder and under the Income Tax Indemnity Agreement whether as additional Rent, indemnification or otherwise, and (d) all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by the Lessor as a result of the Lessee's default hereunder or under the Income Tax Indemnity Agreement; provided that upon receipt of payment in full of such amount, the Lessor shall transfer to the Lessee, without any representation or warranty of any kind, express or implied, whatever title to such Items of Equipment it may have, free of all liens arising by, through or under the Lessor or any of its affiliates;

(v) By notice to the Lessee, declare this Lease terminated without prejudice to the Lessor's rights in respect of obligations then accrued and remaining unsatisfied; or

(vi) Avail itself of any other remedy or remedies provided for by any statute or otherwise available at law, in equity, or in bankruptcy or insolvency proceedings.

The remedies herein set forth or referred to shall be cumulative. The references to additional Rent in clauses (iii) and (iv) of this Section 18 shall each include, without limitation, interest at the Overdue Rate, to the date of

receipt by the Lessor of the amount payable under said clause, on installments of Rent owing hereunder to and including the Rent Payment Date immediately following the date on which notice is given under said clause, from the respective due dates of such installments, and interest on all other costs, expenses and losses for which the Lessor is entitled to payment under said clause from the respective dates incurred by Lessor.

Section 19 Notices

All communications and notices provided for herein shall be in writing and shall become effective one (1) business day after deposit in the United States mail, with proper postage for first-class mail prepaid certificate or registered return receipt requested, addressed:

(a) if to the Lessor at:

120 South Central
Suite 1505
St. Louis, Missouri 63105
Attention: Executive Vice-President and
Chief Financial Officer

(b) if to the Lessee at:

1700 West Loop South, Suite 1500
Houston, TX 77027

Attention: President

with a copy to the Guarantor at the same address as the Lessee, Attention: President.

Section 20 Lessor's Right to Perform for Lessee.

If the Lessee shall fail to make any payment due hereunder or to perform or comply with any of its covenants and agreements contained herein, the Lessor may give notice of such failure to the Lessee and, within ten days after such notice is given, the Lessor may itself make such payment or perform or comply with such agreements or covenants except that if the Lessee's failure creates substantial risk of harm to or forfeiture of any of the Equipment, the Lessor may make such payment or perform or comply with such agreements or covenants concurrently with or at any time after the giving of such notice and the amount of the reasonable expenses of the Lessor (including attorneys' fees and expenses) incurred in connection with such payment of the performance of or compliance with such agreements or covenants, as the case may be, together with interest thereon at the Overdue Rate, shall be deemed Rent, payable by the Lessee upon demand. No such payment, performance of compliance by the Lessor shall be deemed to cure any Event of Default arising out of such failure of the Lessee to pay, perform or comply.

Section 21 Further Assurances

The Lessee will promptly and duly execute and deliver to the Lessor such documents and assurances and take such further action as the Lessor may from time to time

reasonably request in order to carry out more effectively the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of Lessor hereunder, including, without limitation, if requested by the Lessor and at the expense of the Lessee, the recording or filing of counterparts hereof, or of such other documents with respect hereto, in accordance with the laws of such jurisdictions as Lessor may from time to time reasonably request and so advise Lessee in writing.

Section 22 Amendments and Miscellaneous

(a) The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by a written instrument signed by the Lessor and the Lessee.

(b) This Lease, including all agreements, covenants, representations and warranties, shall be binding upon and inure to the benefit of the Lessor and its successors, assigns, agents, servants and personal representatives. The obligations and liabilities of the Lessor and the Lessee arising under this Lease shall survive the expiration or earlier termination of this Lease, until all such obligations have been met and such liabilities have been paid in full.

(c) All agreements, covenants, representations and warranties contained in this Lease or in any document or cer-

tificate delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Lease and the expiration or other termination of this Lease.

(d) Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(e) 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 or to the Equipment, except as lessee only.

(f) The single executed original of this Lease marked "Original" shall be the "Original" and all other counterparts hereof shall be marked and be "Duplicates." To the extent 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."

(g) This Lease shall be construed in accordance with, and shall be governed by, the laws of the State of Texas.

(h) Section headings are for convenience only and shall not be construed as part of this Lease.

(i) This Lease is dated as of November 12, 1981 for convenience of indentification in the Participation Agreement and other documents related thereto. Notwithstanding such dating, the effective date of this Lease for all purposes is the Closing Date.

IN WITNESS WHEREOF, the parties hereto have each caused this Lease to be duly executed by their respective officers thereunto duly authorized.

LESSOR:
CHROMALLOY LEASING, INC.

By _____
Its EVP

By _____
Its Exec VP

LESSEE:
RICHMOND LEASING COMPANY

By _____
Its Vice President

By _____
Its

Exhibits:

Exhibit A - Casualty Values

Exhibit B - Description of Equipment

STATE OF NEW YORK)
) SS:
COUNTY OF)

On this 13th day of November, 1981, before me personally appeared Jim Herring, to me personally know, who, being by me duly sworn, says that he is a vice president of Richmond Leasing Company that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Dorothy A. Cioffi
Notary Public

(Notarial Seal)

My Commission expires

DOROTHY A. CIOFFI
Notary Public, State of New York
No. 43-4653996
Qualified in Richmond County
Certificate Filed in New York County
Commission Expires March 30, 19 83

STATE OF CALIFORNIA)
) SS:
COUNTY OF SAN FRANCISCO)

On this 12th day of November, 1981, before me personally appeared Dale Atteberry , to me personally known, who, being by me duly sworn, says that he is a Exec. Vice Pres. of Chromalloy Leasing, Inc. , that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Dawn Alette Wonders
Notary Public

(Notarial Seal)

My Commission expires April 25, 1983

STATE OF ILL)
) SS:
COUNTY OF COOK)

On this 17 day of November, 1981, before me personally appeared R H TRAVERS , to me personally known, who, being by me duly sworn, says that he is a V-P of CHROMALLOY LEASING that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

(Notarial Seal)

My Commission expires

My Commission Expires March 7, 1984

RICHMOND LEASING COMPANY
HOPPER CARS
STIPULATED VALUE SCHEDULE

Payment Date	Payment Number	Stipulated Loss Value*
1/1982	1	102.9925 %
7/1982	2	105.2936
1/1983	3	107.0941
7/1983	4	108.3130
1/1984	5	108.8857
7/1984	6	108.8518
1/1985	7	108.1176
7/1985	8	106.7071
1/1986	9	104.7473
7/1986	10	102.6233
1/1987	11	100.3337
7/1987	12	97.8637
1/1988	13	95.1970
7/1988	14	92.3161
1/1989	15	89.2019
7/1989	16	85.9222
1/1990	17	82.5447
7/1990	18	79.0705
1/1991	19	75.5233
7/1991	20	71.8991
1/1992	21	68.2288
7/1992	22	64.5111
1/1993	23	60.7860
7/1993	24	57.0559
1/1994	25	53.3721
7/1994	26	49.5679
1/1995	27	45.4408
7/1995	28	40.9489
1/1996	29	36.1094
7/1996	30	30.8600
1/1997	31	25.0000

* The Stipulated Loss Value is stated as a percent of the Original Equipment Cost.

EXHIBIT B

to LEASE AGREEMENT

DESCRIPTION OF EQUIPMENT

151 100-ton, 4750 cubic foot triple gate covered hopper cars equipped with gravity discharge gates and fiberglass covers manufactured by Richmond Tank Car Company as follows:

Reporting Marks and Nos.	Owner's Cost (Per Item)
KBSR 500001 - KBSR 500009 KBSR 500117 - KBSR 500118	$ 46,441
DR 10083 - DR 10192	$ 46,205
RTMX 8556 - RTMX 8585	$ 46,405

EXHIBIT "C"

TAX INDEMNIFICATION AND OTHER TAX MATTERS

This Exhibit "C" is incorporated in, and by this reference made a part of, Section 15 of the Lease to which it is attached.

(a) Election. The Lessor and the Lessee hereby agree to characterize this Lease as a lease for purpose of federal tax law and elect to have the provisions of Section 168(f)(8) of the Code apply to the transaction contemplated hereby. The Lessor will be treated as the lessor of each Item of Equipment and the Lessee as the lessee. The Lessee agrees to provide the Lessor with such information as the Lessor may request in connection with the filing of the information return required by Section 5c.168(f)(8)-2(a)(3) of the Regulations, promptly to execute such return upon the Lessor's request and to do all other things reasonably requested by the Lessor to carry out this election.

(b) Tax Assumptions. The following are tax related assumptions which the Lessor has made in initially calculating its book earnings and nominal before-tax rate of return in this transaction (the Tax Assumptions):

(i) This Lease is a lease for federal and state income tax purposes of each Item of Equipment between the Lessor, as purchaser, owner, lessor and original user, and the Lessee, as lessee.

(ii) The entire Owner's Cost of Equipment will be attributable to "qualified leased property" within the meaning of Section 168(f)(8) of the Code.

(iii) Each Item of Equipment was placed in service by the Lessee, within the meaning of Section 168(f)(8)(D) of the Code after December 31, 1980 and prior to the Closing Date.

(iv) Each Item of Equipment will be deemed to be placed in service by the Lessor on the Closing Date.

(v) The Lessor's unadjusted basis for each Item of Equipment on the Closing Date under Section 168(a) of the Code, for purposes of computing accelerated cost recovery deductions, and the appropriate provisions of applicable state law, for purposes of computing depreciation deductions, is an amount equal to the Owner's Cost thereof.

(vi) Accelerated cost recovery deductions are allowable with respect to each Item of Equipment and may be computed using the percentages set forth in Section 168(b)(1)(A) of the Code for 5-year property.

(vii) Depreciation deductions are allowable with respect to each Item of Equipment pursuant to the appropriate provisions of applicable state law, and shall be in amounts (computed in the aggregate taking into account all applicable state laws) no less favorable to the Lessor than if such deductions were (x) computed initially pursuant to the declining balance

method of depreciation, using a rate equal to 150% of the straight line rate, and thereafter the method of depreciation may at any time be changed from such declining balance method to the straight line method of depreciation without the consent of the applicable taxing authority; (y) determined on the assumption that the net salvage value of each Item of Equipment determined under applicable state law is an amount equal to 10% of the Owner's Cost thereof; and (z) available for each Item of Equipment over a depreciation period of 15 years commencing on July 1, 1981 for applicable state income and franchise tax purposes.

(viii) The Lessor will be entitled to deductions with respect to interest paid or accrued on the indebtedness incurred or to be incurred by the Lessor in financing or refinancing its purchase of the Equipment.

(ix) All amounts included in the gross income of the Lessor with respect to the Items of Equipment and all deductions allowable to the Lessor with respect to the Items will be treated as derived from or allocable to sources within the United States.

(c) Indemnity. If (i) as a result of any Cause of Tax Loss (as defined in Section 15(d) below) the Lessor shall not be entitled to all of the tax benefits that flow from the Tax Assumptions or any of those benefits shall at any time be recaptured, disallowed or lost, in whole or in part, or (ii) for any reason whatsoever the Lessor shall be

required to include in gross income amounts with respect to the transactions contemplated by this Lease, other than (1) fees, commissions, or other payments the Lessor may receive for services to others, (2) Basic Rent at the time of actual receipt by the Lessor, (3) any indemnity payment under the Lease at the time of actual receipt by the Lessor to the extent indemnity to the Lessor is included in or paid separately to the Lessor in respect to the tax consequences of such payment, (4) payments of Casualty Value and the excess of any net insurance proceeds, condemnation payments, damages or other amounts over Casualty Value under Section 11, payments under Section 18 determined with reference to Casualty Value, and (5) Fair Market Value or any other amounts or proceeds from the sale, leasing, use or other disposition of any Item of Equipment from the Lessee or any other person, after the Expiration Date (any such failure of entitlement, recapture or inclusion in gross income being herein called a Tax Loss), then the Lessee shall indemnify the Lessor for the amount of the Tax Loss in accordance with this Section 15.

(d) Causes of Tax Loss. "Cause of Tax Loss" for the purposes of this Section 15 means any one or more of the following causes that shall result in a Tax Loss:

(i) Any Item of Equipment on the Closing Date not constituting "qualified leased property" within the meaning of Section 168(f)(8)(D) of the Code.

(ii) Any Item of Equipment on the Closing Date not constituting "5-year property" within the meaning of Section 168(c)(2)(B) of the Code.

(iii) Any Item of Equipment ceasing at any time during the term of this Lease to be "section 38 property" within the meaning of Section 48(a) of the Code or "5-year property" within the meaning of Section 168(c)(2)(B) of the Code.

(iv) On the Closing Date, the adjusted basis of any Item of Equipment under Section 168 of the Code, for the purpose of computing accelerated cost recovery deductions, and under the appropriate provision of applicable state law for the purpose of computing depreciation deductions, being an amount less than the Owner's Cost thereof.

(v) Any breach by the Lessee or the Guarantor of any of the representations, warranties or agreements made by them in this Lease, the Participation Agreement, the Guaranty or the Purchase Documents.

(vi) The Lessor shall not be entitled for any reason whatsoever to treat all amounts included in its gross income with respect to the Participation Agreement, the Lease and the Security Agreement and the transactions contemplated thereby and all deductions allowable to the Lessor with respect thereto as derived from or allocable to sources within the United States.

(vii) Any act or failure to act on the part of the Lessee whether or not permitted or required by this Lease or the Participation Agreement, or consented to by the Lessor.

(viii) Any final judicial or regulatory action or decision at any time, relating to Section 168 of the Code.

(ix) Any final legislative enactment in the nature of a technical correction or amendment to Section 168 of the Code, enacted on or before the fifth anniversary of the Closing Date.

(x) The existence of any of the provisions contained in Section 16 of the Lease, or the exercise of any right or the performance of any obligation by the Lessor or the Lessee thereunder.

Nothwithstanding anything to the contrary elsewhere in this Section 15(d), the Lessee shall not be required to pay Lessor the amount or amounts provided for in section 15(c) above if the requirement for payment shall arise solely as the result of any one or more of the following events:

(1) The failure of the Lessor to have sufficient gross income to benefit from accelerated cost recovery, depreciation and interest deductions.

(2) The failure of the Lessor to file the required information returns described in section 5c.168(f)(8)-2(a)(3) of the Regulations.

(3) The failure of the Lessor to maintain at any time during the term of this Lease a minimum investment in each Item of Equipment then subject to the Lease in an amount not less than 10 percent of the Owner's Cost with respect to such Item.

(4) The failure of the Lessor to claim in a timely and proper manner any permissible deductions, treatment of income and deductions referred to in the Tax Assumptions, or the Lessor including in its income amounts in connection with the Lease which are not properly includable, unless in the opinion of counsel for the Lessor there is no reasonable basis for such claim or treatment or exclusion of such amounts from the Lessor's income or unless the matter in question shall have previously been decided pursuant to the contest provisions of Section 15(f) below.

(5) A voluntary or involuntary transfer or disposition by the Lessor of its interest in any Item of Equipment or part thereof or any interest in this Lease (other than any disposition (x) resulting from the exercise by the Lessee, or any person claiming any right through the Lessee, of the Lessee's rights under this Lease (other than its rights under Section 16(a) of this Lease) or (y) occurring by reason of any Event of Default).

(6) A transfer by the Lessor of its interest in the Equipment in a transaction in which Casualty Value shall be payable (but only to the extent that payment of Casualty Value compensates the Lessor for the Tax Loss).

(7) The Lessor's failure to be a corporation for federal income tax purposes, or its treatment as a personal holding company, within the meaning of Section 542(a) of the Code, or as an electing small business corporation within the meaning of Section 1371(b) of the Code.

(8) Any event occurring after the Expiration Date and not relating to any period during the term of this Lease.

(e) Amount of Indemnity.

(i) Payments by Lessee. In the case of a Tax Loss, the Lessee shall pay to the Lessor, at the Lessee's option, (A) such amount in a lump sum at the time of the Tax Loss, (B) only in the event of a Tax Loss resulting from a Cause of Tax Loss specified in Section 15(d) (viii), (ix) or (x) of this Lease, or otherwise with the written consent of the Lessor, such amounts from time to time over the remaining term of this Lease or such amount in a lump sum at the Expiration Date, as shall be necessary, in the case of both clause (A) and (B), after deduction of all taxes required to be paid by the Lessor in respect of the receipt or accrual of such amount (or amounts, as the case may be), to permit the Lessor to preserve both the net after-tax yield and net after-tax earnings that the Lessor would have realized had the Tax Loss not occurred (but considering only the fact that the Tax Loss has occurred).

(ii) Payments by Lessor. If the event which results in a Tax Loss in any year for which the Lessor is indemnified by the Lessee as provided above has the effect of reducing the tax liability of the Lessor, the Lessor shall pay to the Lessee the sum of (A) the amount by which the Lessor's tax liability has been so reduced and (B) any reduction in the Lessor's tax liability attributable to the deduction of the amount described in this sentence; provided, however, that the total of such payments by the Lessor shall not exceed the total of indemnity payments made by the Lessee in respect of such indemnity and no such amount shall be payable to Lessee at any time when an Event of Default (or any event which with the lapse of time or the giving of notice or both would become an Event of Default) has occurred and is continuing. If the occurrence of an event specified in Section 15(d)(viii), (ix) or (x) of this Lease results in tax benefits to the Lessor more favorable than those set forth as Tax Assumptions, then the Lessor shall adjust the transaction with respect to the Lease in the Lessee's favor so as to preserve both the net after-tax yield and net after-tax earnings that the Lessor would have realized had such event not occurred; provided that the Lessor shall not be required to make a cash payment to the Lessee pursuant to this sentence prior to the earliest of (A)

receipt by the Lessor of a federal, state or local income or franchise tax refund, as the case may be, which shall occur as a result of such tax benefit, (B) the date the Lessor shall realize a reduction in the amount of any federal, state or local income or franchise tax which the Lessor would otherwise have to pay but for the receipt of such tax benefit or (C) the date the Lessor shall realize an increase in the amount of net operating losses which it would have been entitled to carry forward but for such tax benefit, accompanied by a description of such benefit and a computation of the amount so payable, or at any time when an Event of Default (or any event which with the passage of time or giving of notice or both would become an Event of Default) has occurred and is continuing.

(iii) Time of Payment. Except as otherwise provided in Section (e)(i) above, any amount payable to the Lessor pursuant to this Section 15 shall be paid not later than 30 days after receipt of a written demand therefor from the Lessor (but not prior to the earliest or (A) payment by the Lessor of the additional federal, state or local income or franchise tax (including payments of estimated tax), as the case may be, which shall become due as a result of such Tax Loss, (B) the date the Lessor shall suffer a reduction in the amount of any refund or federal, state or local income or

franchise tax which the Lessor would have been entitled to receive but for such Tax Loss or (C) the date the Lessor shall suffer a reduction in the amount of net operating losses which it would have been entitled to carry forward but for such Tax Loss), accompanies by a description of such Tax Loss and a computation of the amount payable.

(f) Contest. If a claim shall be made by the Internal Revenue Service or by any state or local taxing authority which, if successful, would result in a Tax Loss under circumstances which would require the Lessee to indemnify the Lessor, the Lessor shall promptly notify the Lessee. If within 30 days of such notice the Lessee requests the Lessor in writing to contest the claim, and so long as such proceedings do not involve any danger of sale, forfeiture or loss of any Items of Equipment, or any interest therein, and upon the receipt by the Lessor of (i) an opinion of independent tax counsel obtained at the Lessee's expense, tax counsel being reasonably satisfactory to the Lessor, to the effect that a meritorious defense exists as to such claim except in the case of a claim based on an event specified in Section 15(d)(viii), (ix) or (x) of this Lease, and (ii) indemnity reasonably satisfactory to the lessor, and at the expense of the Lessee (including, without limitation, all costs, expenses, losses, legal and accountants' fees and disbursements, penalties and interest), then the Lessor shall in good faith contest (after consultation with

the Lessee) in the name of the Lessor (or, in the sole discretion of the Lessor, in the name of the Lessee), the validity, applicability and amount of the taxes, fees or other charges involved in the Tax Loss by such proceedings as the Lessor, after considering in good faith such request as the Lessee shall make concerning the most appropriate mode of contest, as the Lessor shall in its sole discretion determine appropriate, including (x) resisting payment thereof, (y) not paying the same except under protest, if protest is necessary and proper and (z) if payment be made, using reasonable efforts to obtain a refund thereof in appropriate administrative and judicial proceedings. If the Lessee should object to a proposed compromise of any such contest and furnish an opinion of independent tax counsel, tax counsel being reasonably satisfactory to the Lessor, stating that the proposed compromise does not fairly reflect the litigation potential of such contest, and if the Lessor nevertheless accepts such compromise, such acceptance shall operate as a waiver of the Lessor's right of indemnity against the Lessee with respect to the specific tax, fee or other charge being contested. If the Lessor shall obtain a refund of all or any part of such tax, fee or other charge paid by the lessee, the Lessor shall pay the Lessee an amount which, after taking into consideration the tax consequences under the laws of any federal, state or local or other taxing authority resulting from the receipt by the

Lessor of such a refund and the payment hereunder to the Lessee, is sufficient to place the Lessor in the same position as it would have been had no refund been received by the Lessor and the Lessor had not made any payment hereunder; provided, that such amount shall not be payable before such time as Lessee shall have made payment of all indemnities then due under this Section 15. If in addition to such refund the Lessor shall receive an amount representing interest on the amount of such refund, the Lessee shall be paid that proportion of such interest which is fairly attributable to taxes, fees or other charges paid by the Lessee prior to the receipt of such refund.

(f) No Inconsistent Lessee Actions. The Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with this Section 15 and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof. The Lessee agrees to keep and make available for inspection and copying by the Lessor such records as will enable the Lessor to determine that it is entitled to the full benefit of the Tax Assumptions.

(g) Section 48(d) Election. The Lessor agrees that it will take any and all action necessary to make the

election provided by Section 48(d) of the Code to treat the Lessee as having purchased the Equipment for purposes of the investment tax credit allowed by Section 38 of the Code, including the timely preparation, execution and filing with the Lessee of the statement required by Treasury Regulation §1.48-4(g), and the timely preparation, execution and filing with the appropriate Internal Revenue Service Center of the summary statement required by Treasury Regulation §1.48-4(j).