

Barclays American Leasing

201 South Tryon Street P. O. Box 31217 Charlotte, NC 28231 (704) 372-5210

July 30, 1985

14763
RECORDATION NO. Filed 1425

AUG 6 1985 -9 30 AM

INTERSTATE COMMERCE COMMISSION

James H. Bayne
Secretary, Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Washington, DC 20423

Dear Secretary:

I have enclosed two original copies of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The document is as follows:

1. Equipment Lease Agreement, a primary document dated as of July 25, 1985.

The names and addresses of the parties to the document is as follows:

1. Equipment Lease Agreement

Lessor: BarclaysAmerican/Leasing, Inc.
201 South Tryon Street
Charlotte, NC 28202

and

Lessee: Trailer Train Company
101 North Wacker Drive
Chicago, IL 60606

A description of the equipment covered by the document is as follows:

1. Ninety-five, 5-unit articulated container well cars constructed by Thrall Car Manufacturing Company, Identification Numbers: (both inclusive) TTX 62000-62094.

C. County
C. H. A. Galt

Interstate Commerce Commission
Washington, D.C. 20423

8/6/85

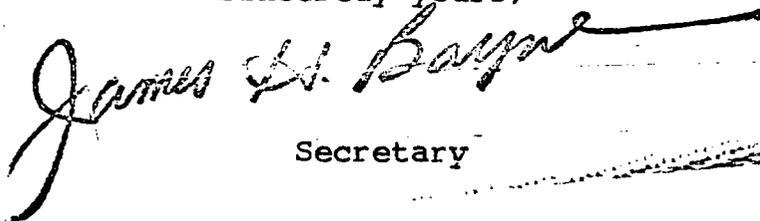
OFFICE OF THE SECRETARY

M.D. Gira
Senior Vice President
Barclays American Leasing
201 S. Tryon Street
P.O.Box 31217
Charlotte, N.C. 28231

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/6/85 at 9:30am and assigned re-
recording number(s). 14763

Sincerely yours,


Secretary

Enclosure(s)

14763

RECORDATION NO. Filed 1425

AUG 6 1985 - 9 30 AM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE AGREEMENT

Dated as of JULY 25, 1985

between

BARCLAYSAMERICAN/LEASING, INC.

Lessor

and

TRAILER TRAIN COMPANY

Lessee

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EQUIPMENT LEASE AGREEMENT

THIS EQUIPMENT LEASE AGREEMENT ("Lease"), dated as of the 25th day of July, 1985, by and between BARCLAYSAMERICAN/LEASING, INC., a North Carolina corporation ("Lessor") and TRAILER TRAIN COMPANY, a Delaware corporation ("Lessee").

WITNESSETH:

1. DEFINITIONS. Unless the context otherwise requires, the terms in Exhibit A annexed hereto shall have the meanings set forth therein for all purposes of this Lease and shall be equally applicable to both the singular and the plural forms of the terms therein defined.

2. LEASE OF UNITS. Lessor shall lease to Lessee and Lessee shall lease from Lessor, upon and subject to the following terms and conditions, the Units described in Exhibit B annexed hereto.

3. PURCHASE, LEASE AND FUNDING.

a. Purchase, Lease and Funding. Subject to the conditions in Section 3 .b. hereof, (i) on the applicable Delivery Date, Lessor shall purchase each Unit from Lessee and simultaneously lease such Unit to Lessee hereunder, and (ii) on the applicable Funding Date, Lessor shall pay the Lessor's Cost of such Unit to Lessee. Lessor's obligations hereunder shall terminate with respect to any Units for which the delivery date and funding date do not occur on or before December 31, 1985. The aforesaid purchase and lease shall be conclusively evidenced by the execution and delivery by Lessee of a Certificate of Delivery and Acceptance relating to such Unit substantially in the form of Exhibit D

annexed hereto, which Certificate of Delivery and Acceptance shall be acknowledged by Lessor. Lessee shall give Lessor written notice of the Delivery Date of any Unit and of Lessor's Cost of such Unit at least five (5) Business Days prior to such Funding Date. Each Funding shall take place at the offices of Lessor, at 201 South Tryon Street, P. O. Box 31217, Charlotte, North Carolina 28231.

b. Conditions of Purchase, Lease and Funding.

(1) First Delivery Date Conditions. The obligation of Lessor to purchase and lease any Unit on its Delivery Date and to pay Lessor's Cost of such Unit on any Funding Date shall be subject to fulfillment of the following conditions to the reasonable satisfaction of Lessor and its counsel on or before the First Delivery Date:

(i) Lessor shall have fully executed this Lease and the Security Agreement.

(ii) Lessor shall have received copies, certified by an officer of Lessee and dated on or before the First Delivery Date, of the appropriate proceedings of the Board of Directors or executive committee thereof of Lessee with respect to the authorization of this Lease, the Certificates of Delivery and Acceptance, the Bills of Sale, the Security Agreement and other instruments contemplated herein and therein and to the execution, delivery and performance thereof by Lessee.

(iii) Lessor shall have received certificates of Lessee showing the incumbency and the specimen signatures of the officers of Lessee who will execute, as appropriate, this Lease, the Certificates of Delivery and Acceptance, the Bills of Sale, the Security Agreement and the other instruments contemplated herein and therein.

(iv) Lessor shall have received a signed opinion dated the First Delivery Date of such legal counsel for Lessee as is reasonably acceptable to Lessor, in the form set forth in Exhibit E(1) annexed hereto.

(v) Lessor shall have received good and sufficient evidence that Lessee has delivered to Continental Illinois National Bank and Trust Company the Pledged Assets as defined and set forth in, and made subject to, the Security Agreement.

(vi) Lessor shall have received executed UCC-1 financing statements from Lessee with respect to the security interest referred to in (v) above.

(vii) Lessor shall have received the consolidated balance sheet and statement of income of the Lessee heretofore delivered to the Lessor dated March 31, 1985 that have been prepared in accordance with generally accepted accounting principles and fairly present the financial position of the Lessee on and as of the date thereof and the results of its operations for the period or periods covered thereby. Since March 31, 1985 there has been no material and adverse change in the financial condition of the Lessee from that shown in such balance sheet and statement of income dated March 31, 1985.

(2) Delivery Date Conditions. The obligation of Lessor to purchase and lease any Unit on its Delivery Date and to pay Lessor's Cost of such Unit on any Funding Date shall be subject to fulfillment of the following conditions to the reasonable satisfaction of Lessor and its counsel on or before such Delivery Date:

(i) The representations and warranties of Lessee contained herein and of each such party in any certificate delivered pursuant hereto or thereto shall be true and correct on and as of such Delivery Date with the same effect as though made on and as of such

Delivery Date; on such Delivery Date there shall be no Event of Default or no event which, but for the lapse of time or the giving notice or both, would be an Event of Default.

(ii) Lessor shall have received a signed opinion dated on such Delivery Date of such legal counsel for Lessee as is reasonably acceptable to Lessor, in the form set forth in Exhibit E(1) hereto.

(iii) A copy of this Agreement, and any assignments hereunder, shall have been filed of record with the Interstate Commerce Commission.

(iv) Since the date of execution of this Lease there shall not have been any material adverse change in the business, operations, properties or financial condition of Lessee.

(v) Lessor's Cost of such Unit will not cause the aggregate Lessor's Cost of all Units delivered and accepted hereunder to exceed \$14,950,000.00.

(vi) Lessor shall have received an executed Certificate of Delivery and Acceptance with respect to such Unit.

(vii) Lessor shall have received a certificate or certificates or other evidence acceptable to Lessor in respect of the insurance required under Section 9 hereof.

(3) General Funding Date Conditions. The obligation of Lessor to pay Lessor's Cost of any Unit on any Funding Date shall be subject to the fulfillment of the following conditions to the reasonable satisfaction of Lessor and its counsel on or before said Funding Date:

(i) Lessor shall have received an invoice for such Unit certified by Lessee as to the correctness of the price stated therein;

(ii) Lessor shall have received evidence reasonably satisfactory to it of payment in full to the Vendor of such Unit of all amounts which Lessee claims were paid to such Vendor by Lessee for the purchase of such Unit.

(iii) Lessor shall have received an executed Bill of Sale with respect to each Unit.

(4) Change in Tax Law. Notwithstanding the other terms of this Section 3, Lessee shall not be required to sell any Unit to Lessor, and Lessor shall not be required to purchase any Unit from Lessee, if, on or prior to the applicable Delivery Date, any Tax Law Change, as hereafter defined, shall have occurred. "Tax Law Change" shall mean any change in the Code, regulations pertaining thereto or any administrative interpretations thereof if (i) such change is enacted and effective prior to the Lessee signing the Lessor's final Certificate of Acceptance and if (ii) such change would result in Lessor not being entitled to all of the Tax Benefits described in Section 27.a. hereof.

(5) Non-Delivery of Units. If despite its best efforts in the matter Lessee cannot meet conditions in Section 3.b.(1-3), Lessee will not be required to sell the affected Units to Lessor hereunder.

c. Transaction Indemnity. In the event that, as to any Unit, for any reason whatsoever, each condition precedent to the transactions as contemplated herein is not satisfied or waived or any Unit suffers a Casualty Occurrence before the Delivery Date with respect thereto, (i) such Unit shall be excluded from the definition of "Leased Equipment," (ii) Lessor shall reassign all of its right, title and interest in and to such Unit to Lessee without recourse or warranty other than for claims

resulting from or arising out of Lessor's breach of any Lessor Obligations and (iii) Lessee shall indemnify, protect and keep harmless Lessor and its successors, assigns, representatives, agents and servants from and against any and all claims which may be imposed on, incurred by or asserted against Lessor or in any way relating to or arising out of the purchase, acceptance, ownership, delivery, use, sale, return or other disposition of such Unit except for Claims resulting from or arising out of Lessor's breach of Lessor Obligations. The provisions of this Section 3.c. shall survive the expiration or earlier termination of this Lease.

4. LEASE TERM. The term of this Lease for each Unit shall commence on the Delivery Date for such Unit and shall end on the Expiration Date for such Unit (hereinafter "Lease Term"), unless sooner terminated pursuant to Section 12 or 17 hereof.

5. RENTAL.

a. Basic Rent. The Lessee shall pay to the Lessor as basic rent (herein referred to as "Basic Rent") for each Unit, the following:

(i) On the Interim Rent Date an amount equal to the Daily Lease Rate Factor multiplied by the Lessor's Cost of such Unit, for each day elapsed from and including the Delivery Date of each Unit, with respect to such Unit to, but excluding the Basic Lease Term Commencement Date.

(ii) On the First Rental Payment Date, and on each Rental Payment Date after the First Rental Payment Date to, and including, the Last Rental Payment Date, an amount equal to the Basic Lease Rate Factor multiplied by the Lessor's Cost of such Unit.

b. Supplemental Rent. Lessee shall also pay to Lessor or its assigns, as Supplemental Rent, any and all amounts, liabilities and obligations which Lessee assumes or agrees to pay hereunder to Lessor or others, including, without limitation, Casualty Loss Values payable under Section 12.c. hereof and the indemnities provided for in Sections 3.c., 11.a. and 20 hereof, promptly as the same shall become due and owing, and in the event of any failure by Lessee to pay any Supplemental Rent, Lessor or its assigns shall have all rights, powers and remedies provided for herein or by law or equity or otherwise as in the case of nonpayment of Basic Rent. Lessee shall also pay to Lessor on demand, as Supplemental Rent, to the extent permitted by applicable law, interest at the Default Interest Rate on any part of any installment of Basic Rent and any payment of Casualty Loss Value not paid when due for the period for which the same shall be overdue and on any other payment of Supplemental Rent due hereunder and not paid when due to Lessor for the period when due until the same shall be paid.

c. Obligation to Pay Rent. This is a net lease and Lessee's obligation to pay all Basic Rent and Supplemental Rent payable hereunder in accordance with the terms hereof shall be absolute and unconditional, and shall not be affected by any circumstance, including, without limitation: (i) any setoff, counterclaim, recoupment, deduction, defense or other right which Lessee may have against any vendor, manufacturer or supplier or anyone else for any reason whatsoever; (ii) any defect in the title, condition, design, operation, merchantability or fitness for use of any Unit; (iii) the existence of any liens, encumbrances or rights of others whatsoever with respect to any Unit, whether or not resulting from claims against the Lessor; (iv) subject to Section 12.c. hereof, any loss or destruction of, or damage to, any Unit or any interruption or cessation in the use or possession thereof for any reason whatsoever and of whatever duration; (v) the invalidity or unenforceability of the Lease or any other infirmity therein or any lack of power or authority of Lessor or Lessee to enter into the Lease; or (vi) any insolvency,

bankruptcy, reorganization or similar proceedings by or against Lessee or Lessor. If for any reason whatsoever (other than pursuant to Section 12.c. hereof or resulting from or arising out of Lessor's breach of any Lessor Obligations) this Lease shall be terminated in whole or in part by operation of law or otherwise except as specifically provided herein, Lessee shall nonetheless pay to Lessor an amount equal to each payment of Rent at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part. Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease, except in accordance with the express terms hereof. Each payment of Basic Rent or Supplemental Rent made by Lessee shall be final, and Lessee will not seek to recover all or any part of such payments from Lessor or any other person for any reason whatsoever. This provision, however, shall not be construed to waive or in any other manner adversely affect Lessee's right of action, if any, against Lessor or any other person for damages incurred by Lessee on account of any breach by Lessor or such other person of any provision of this Lease or any other agreement relating or not relating hereto.

6. DISCLAIMER OF WARRANTIES. LESSEE EXPRESSLY ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER, DISTRIBUTOR, VENDOR OR SUPPLIER OF EQUIPMENT OR AN AGENT OF ANY MANUFACTURER, DISTRIBUTOR, VENDOR OR SUPPLIER OF ANY UNIT. LESSOR SHALL NOT BE DEEMED TO HAVE MADE OR GIVEN, AND LESSOR HEREBY EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR USE OF ANY UNIT OR AS TO TITLE THERETO, OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH UNIT, except that Lessor hereby represents and warrants that on the Delivery Date of each Unit, Lessor shall have received whatever title was conveyed to it by Lessee or by the respective Seller

thereof, as the case may be, and that each Unit shall be free of liens and encumbrances which may result from claims against Lessor resulting from or arising out of Lessor's breach of any Lessor Obligations. Lessee agrees that the only other guarantees or warranties made with respect to any Unit are those made by the Seller or manufacturer thereof, and the parties agree that they shall cooperate in enforcing such guarantees and warranties when such action is necessary, which enforcement shall be at the Lessee's expense. So long as no Event of Default or event which, with the lapse of time or the giving of notice or both, would be an Event of Default, shall have occurred and be continuing, Lessor hereby assigns to Lessee, for and during the term of this Lease, any applicable Seller or manufacturer warranty issued on or applicable to any Unit, and Lessor hereby authorizes Lessee during the term of this Lease to obtain, at Lessee's sole expense, any and all services furnished in connection therewith by any Seller or manufacturer.

7. OPERATION AND MAINTENANCE OF UNITS.

a. General. Lessee shall operate the Units only in the normal and ordinary course of Lessee's business within the United States except for incidental usage in Canada and Mexico.

b. Lessee's Maintenance Obligation. Lessee, at its own expense, shall maintain, service and repair each Unit, and from time to time make or cause to be made all necessary restorations thereto, as are consistent with prudent industry practice and as are in compliance with Section 7.c. hereof and in accordance with the applicable rules and regulations of the American Association of Railroads, if any. Each Unit shall at all times be maintained such that it shall not be prohibited from being operated as intended at the Delivery Date pursuant to such aforesaid rules and regulations. In addition, each unit shall at all times be maintained to comply with all applicable safety regulations of the American Association of Railroads.

c. Lessee's Compliance with Law. Lessee shall comply in all material respects with all laws, rules, regulations, requirements and orders of all governmental authorities having jurisdiction with respect to the use, maintenance, condition and operation of each Unit (including but not limited to the American Association of Railroads) (regardless of upon which person such laws, rules, regulations, requirements or orders shall, by their terms, be nominally imposed), unless Lessee shall be contesting the validity thereof in good faith and by appropriate proceedings. Lessee, at its own expense, shall procure and pay for all permits, franchises, inspections and licenses necessary or appropriate in connection with any Unit and any repair, restoration, replacement, renewal, addition or improvement thereof and thereto.

d. Lessor's Rights and Obligations. Lessor shall not be required to maintain, service or repair, or to make any repair, restoration, replacement, renewal, addition or improvement of any nature or description with respect to, any Unit, or, except to the extent specifically provided herein, to incur any cost or expense in connection with this Lease. In the event Lessee fails or is unable to perform maintenance and repairs as provided herein, Lessor shall have the right, but not the obligation, to perform the same, in the manner and subject to the provisions set forth in Section 22 hereof. Lessor and its agents and employees shall have at all reasonable times during normal business hours (upon reasonable notice) the right of access to the premises where any Unit is located for the purposes, at Lessor's expense, of inspecting such Unit and any maintenance records and observing its use and operation.

8. ADDITIONS AND IMPROVEMENTS.

a. Generally. Except as may be required pursuant to Section 8.b. or Section 7.c. hereof or as permitted pursuant to Section 8.d. hereof, Lessee shall not make any addition or improvement to any Unit which is not readily removable without causing material damage to any

Unit. Lessee shall be entitled from time to time during the term of this Lease to acquire and install, at Lessee's expense, such additions or improvements to the Leased Equipment which are readily removable without causing material damage to any Unit and which do not impair the Fair Market Value or utility of any Unit as originally delivered hereunder to Lessee (ordinary wear and tear excepted).

b. Compliance with Law. Lessee agrees to make, at its own expense and without offset for Rent due hereunder, any addition or improvement required to be made to any Unit in order to satisfy Lessee's obligations set forth in Section 7.c. hereof. Any such addition or improvement shall immediately and without further act become the property of Lessor.

c. Severable Additions. Should Lessee install any addition or improvement on any Unit which is readily removable without causing material damage to such Unit and which does not impair the Fair Market Value or utility of such Unit as originally delivered hereunder to Lessee (ordinary wear and tear excepted), Lessee may remove such addition or improvement before such Unit is returned to Lessor. Lessee shall repair all damage to such Unit resulting from such installation and removal so as to restore the Unit to the condition in which it existed prior to the installation of such addition or improvement (ordinary wear and tear excepted). Notwithstanding the foregoing and provided that Lessee has not exercised its option to purchase such Unit pursuant to Section 14.b. hereof, any addition or improvement not removed shall become the property of Lessor.

d. Non-severable Additions. Lessee may make to any Unit any addition or improvement which is not readily removable without causing material damage to such Unit which will not decrease the value, utility or marketability of the Unit, such additions or improvement shall immediately and without further act become the property of Lessor.

9. INSURANCE.

a. General. Lessees agrees to carry, at its own cost and expense and continuously maintain, comprehensive public liability (both bodily injury and property damage) insurance in respect of the Units at the time subject hereto, at least in amounts and against risks customarily insured against by railroad companies or the Lessee on similar equipment owned by them or it. In no event shall the Lessee permit such insurance coverage to be less than \$15,000,000, such amount shall include levels of self-insurance and deductibles not to exceed \$5,000,000 nor be inconsistent with prudent industry practice. Such insurance coverage shall be "primary coverage" for the protection of the Lessee and Lessor notwithstanding other coverage carried by the Lessee or Lessor protecting against similar risks. Such insurance shall name the Lessor as an additional insured with all attendant rights thereto, subject to the terms and conditions of the policy. Such policy or policies shall provide that they may not be materially modified or terminated or cancelled unless Lessor is given at least (30) days advance written notice thereof. Lessee shall furnish Lessor with certificates of such insurance or copies of policies and renewal certificates or other statements with respect to renewal of existing policies or purchase of other insurance within 30 days of such renewal date.

b. Performance by Lessor. In the event that Lessee shall fail to maintain insurance as herein provided, Lessor may at its option, but without obligation, provide such insurance and, in such event, Lessee shall, upon demand from time to time, reimburse Lessor for the cost thereof, together with interest on such cost at the Default Interest Rate computed from the date of payment of such cost to the date of reimbursement. Lessor shall give Lessee prompt written notice of any such insurance.

c. Separate Insurance. Nothing in this Section 9 shall be construed to prohibit Lessor from insuring at its own expense any Unit or its interest therein,; and any insurance so maintained shall not provide for or result in a reduction of the coverage or the amounts payable under any of the insurance required to be maintained by Lessee under this Section 9.

10. TITLE AND LIENS.

a. Title. Lessor and Lessee agree that this is an agreement of lease only, and nothing contained herein shall be construed as conveying to Lessee any right, title or interest in or to the Units except as Lessee. Lessor and Lessee intend that title for state and local property laws purposes vest in the Lessor and that the Leased Equipment is and shall remain personal property and each of them agrees that it will not itself take any action, and will use its best efforts to prevent any others from taking any action, which would cause any Unit to lose such character. The Leased Equipment shall remain personal property regardless of the degree or manner of its attachment to realty and title thereto shall remain exclusively in Lessor. At Lessor's request, Lessee shall execute any and all documents acknowledging Lessor's ownership of the Units. Lessee shall execute any and all documents which are presented to Lessee as necessary or appropriate to perfect, confirm and protect the interest of Lessor in and to the Units and this Lease.

b. Liens. Lessee shall keep the Leased Equipment free from any and all liens, encumbrances and claims (except Permitted Liens) and shall not do or permit any act or thing whereby Lessor's title or rights may be encumbered or impaired. Lessee agrees to take such action (including the obtaining and recording of waivers), at its own expense, as may be necessary to prevent any third party from acquiring any right to or interest in the Leased Equipment by virtue of the Leased Equipment

being deemed to be real property or part of any real property, and if at any time any person shall claim any right or interest referred to above, Lessee will, at its own expense, cause such claim to be waived in writing or otherwise eliminated to Lessor's reasonable satisfaction within thirty (30) days after such claim shall at first become known to Lessee.

11. TAXES AND OTHER CHARGES.

a. General. Subject to contest rights set forth in Section 11.e. hereof, Lessee shall pay, indemnify and hold Lessor harmless from, and shall reimburse Lessor for, all taxes and governmental charges, including, without limitation, income, sales, use, gross receipts, fuel, stamp, personal property, excise or other taxes, tolls, levies, imposts, duties, charges or withholdings of any nature, along with any penalties, fines or interest thereon imposed against Lessor by any foreign, federal, state or local government or taxing authority or any subdivision thereof: (i) upon or with respect or incidental to the Leased Equipment or any Unit or any part thereof; (ii) upon the ordering, purchase, ownership, delivery, leasing, subleasing, possession, registration, use, operation, return or other disposition thereof; (iii) upon the rentals, receipts, or earnings arising therefrom; or (iv) upon or with respect to this Lease (all such expenses, taxes, fees, charges, fines, penalties and additions to tax being hereinafter called "Impositions"), subject to the contest rights set forth in Section 11.e.; provided that this Section 11.a. shall not apply to (A) Impositions included in Lessor's Cost of the Leased Equipment, (B) Impositions imposed by the United States or any state or political subdivision thereof which are based upon or measured by Lessor's net income or which are in substitution for, or relieve Lessor from, any Imposition based upon or measured by Lessor's net income, in each case with the exception of increases in Impositions covered by Section 11.b. hereof, (C) business and occupation taxes and franchise taxes imposed on Lessor by the United States or any state or political subdivision thereof not attributable to this transaction, or

(D) penalties, fines or interest imposed as a result of Lessor's failure to notify Lessee as provided by Section 11.d., (E) any income tax imposed by a foreign jurisdiction in which no Unit was ever physically present, (F) income tax imposed by a foreign jurisdiction which imposes taxes on a unitary basis except that the portion of such income taxes payable to such taxing authority which represent an increase over that which would have otherwise been payable had it not been for the physical presence of any Unit in such jurisdiction, or (G) any Impositions imposed upon the sale, transfer or other disposition by Lessor of any Unit or any portion thereof or any interest therein other than such Impositions arising from the sale, transfer or other disposition occurring pursuant to the Lessor's exercise of the remedies pursuant to Section 17 hereof. For purposes of this paragraph, foreign tax credits arising out of this transaction will be deemed to be utilized (i) prior to foreign tax credits arising out of transactions which provided that foreign tax credits arising out of such transactions are deemed to be used last and (ii) pro rata with all other foreign tax credits arising out of transactions, except transactions with affiliated companies and transactions in which it is assumed that foreign source income is to be generated.

b. After-tax Basis. The indemnity amounts payable under Section 11.a. hereof shall be computed on an "after-tax" basis, so that any such indemnity payment shall be in an amount which, when reduced by the increase in the federal, state and local tax liability of the Lessor based upon or measured by Lessor's net income as a result of such payment and after taking into account any present or future tax benefits to Lessor arising from such payment or the circumstances giving rise to such payment, shall equal the amount of the tax in respect of which such indemnity is payable. Lessee may within thirty (30) days of receipt of notice from Lessor of the amount of the indemnity amount payable request that the independent Big Eight Public Accounting Firm mutually selected

by Lessor and Lessee verify at Lessee's expense the computations performed by Lessor in determining the indemnity amount and Lessor shall provide such accountants with information which is reasonably necessary to perform such verification.

c. Offsets. Notwithstanding Sections 11.a. or 11.b. hereof, to the extent that Lessor receives or is allowed a refund of or credit against any Imposition which has actually been paid by Lessee, Lessor shall notify Lessee of said refund or credit within thirty (30) days thereof, and Lessee's obligations under Section 11.a. hereof to Lessor shall be offset to the extent of such refund or credit, or Lessee shall be entitled to a refund of such amount from Lessor, at Lessee's election, or if the Lessee has paid an indemnity amount pursuant to Section 11 with respect to such Imposition, the Lessee shall be entitled to a refund or credit of such indemnity amount with respect to such Imposition.

d. Tax Filing and Payments. Lessee shall timely prepare and file all reports and returns which are required to be made with respect to any obligation of Lessee under, or arising out of, Section 11.a. hereof. Lessee shall, to the extent permitted by law, cause all billings of such fees, taxes, charges, fines, penalties and additions to tax to be made to Lessor in care of Lessee, make payment thereof and, from time to time on written request of Lessor submit written evidence of such payment. Lessor shall use its best efforts to furnish Lessee, promptly after receipt, copies of all requests for information from any taxing authority relating to any obligation of Lessee under, or arising out of, Section 11.a. hereof, and shall request such taxing authority to contact Lessee regarding any such information. The provisions of this Section 11 shall survive the expiration or earlier termination of this Lease with respect to any Imposition which arise from acts or events which occur prior to expiration or early termination of the Lease Term and return of the Leased Equipment pursuant to Section 15 hereof or purchase of the Leased Equipment pursuant to Section 14 hereof.

e. Contest Rights. Lessee shall be entitled to contest, settle or otherwise dispose of any Imposition (with counsel of its choice) which it would be required to pay or indemnify Lessor for hereunder, provided that (i) Lessor shall have reasonably determined that the action to be taken shall not result in the forfeiture or loss of any Unit, (ii) Lessee shall first have delivered to Lessor at Lessee's expense, an opinion of counsel reasonably acceptable to Lessor to the effect that there is a reasonable basis for concluding that the Imposition is unwarranted, (iii) Lessee agrees on the basis of information then available that the Imposition to be contested is one against which the Lessee is obligated to indemnify Lessor under this Section 11, (iv) the Lessee shall have reimbursed the Lessor for any amounts required to be paid by the Lessor to obtain the right to contest and any such amounts refunded to Lessor shall be returned to Lessee pursuant to Section 11.c., (v) such contest is diligently conducted by Lessee, (vi) Lessee shall provide security reasonably acceptable to Lessor at Lessor's request to assure performance of Lessee's obligations referred to in clause (iii) above, (vii) adequate steps are taken to avoid any possibility of collection efforts against Lessor, the Units or any of Lessor's other property while such proceedings are pending, and (viii) Lessee keeps Lessor informed of all major developments therein, and consults with Lessor with respect to such proceedings at Lessor's reasonable request.

12. RISK OF LOSS.

a. Generally. During the term of this Lease with respect to any Unit, Lessee shall bear the risk of and all responsibility for loss or damage to such Unit of any kind whatsoever. Lessee agrees to indemnify and hold Lessor harmless against all risks to the Leased Equipment, including, without limitation, loss or damage caused by fire, lightning, tornadoes, wind storm, water damage, explosion, strikes, riots, civil commotion, vandalism, malicious mischief, burglary and theft.

b. Casualty Occurrence. In the event that a Unit shall be or become (i) lost, stolen, destroyed, (ii) in Lessee's reasonable judgment, irreparably damaged or damaged beyond economic repair, from any cause whatsoever, or (iii) taken or requisitioned by any governmental body by condemnation or similar proceeding which results in the loss of possession of such Unit by Lessee for a period of more than one hundred eighty (180) consecutive days or for a period which exceeds the then remaining term of this Lease with respect to such Unit (any such event described in clauses (i), (ii) or (iii) herein called a "Casualty Occurrence"), Lessee shall within 30 days of its acquiring knowledge thereof notify Lessor of the location of the Unit, if known, the nature of the Casualty Occurrence and any other pertinent information regarding the Casualty Occurrence or any other liability claims.

c. Consequences of Casualty Occurrence. In the event of a Casualty Occurrence with respect to a Unit, Lessee shall pay to Lessor on the earlier of the next Rental Payment Date occurring no sooner than 30 days following notice of such Casualty Occurrence or on the Expiration Date (the "Casualty Loss Payment Date") (A) all unpaid Basic Rent including Basic Rent due on such Casualty Loss Payment Date on the next Rental Payment Date occurring no sooner than 30 days following such Casualty Occurrence or Expiration Date following such Casualty Occurrence, as the case may be, and Supplemental Rent (excluding Casualty Loss Values which are covered in (B), below) hereunder to and including such Casualty Loss Payment Date, and (B) the Casualty Loss Value for such Unit. If Lessee has paid Lessor such amounts and has paid all unpaid license, personal property, highway, use or other taxes, excises or charges that may have accrued with respect to such Unit, then, and in such event, the obligation of Lessee to pay Basic Rent with respect to such Unit on or after the Casualty Loss Payment Date shall cease, and the term of this Lease with respect to such Unit shall terminate on such Casualty Loss Payment Date except for obligations which, by the terms

hereof, expressly survive the termination hereof. Without limitation, Lessee's obligation to pay all unpaid license, personal property, highway, use or other taxes, excises or charges that may have accrued with respect to a Unit, but which are not yet payable at the time of the Casualty Occurrence, shall survive termination hereof. On such Casualty Loss Payment Date, Lessee shall take possession of such Unit, and Lessor shall, upon request of Lessee, execute and deliver to, or upon the order of, Lessee a bill of sale for such Unit (without warranties other than for liens or claims resulting from or arising out of acts of Lessor or claims of Lessor's creditors for which Lessee is not responsible under this Lease). Except as otherwise provided in this Section 12.c., Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, a Casualty Occurrence to any Unit after delivery to and acceptance of such Unit by Lessee hereunder and prior to termination of this Lease and delivery by Lessee to Lessor of such Units pursuant to Section 15 hereof.

13. ASSIGNMENTS AND SUBLEASES.

a. Lessor. Lessor may, from time to time, assign (whether as security or otherwise) all or any part of its right, title and interest in this Lease, including all moneys and claims for moneys due and to become due to it. In the event of such assignment, Lessor shall remain liable for the performance of all Lessor Obligations. Such assignee shall have no obligation or liability under this Lease by reason of or arising out of such assignment, nor shall such assignee be required or obligated in any manner to perform or fulfill any obligations of Lessor under this Lease.

b. Lessee. So long as no Event of Default (or event which would constitute an Event of Default but for the lapse of time or the giving of notice or both) shall have occurred and be continuing, the Lessee shall be entitled to sublease the Units to, or to permit their use under the terms of car contracts by, a sublessee or user incorporated in

the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia) or Canada, or over which such railroad company or companies have trackage rights or rights for operation of their trains, and upon connections and other carriers in the usual interchange of traffic in the continental United States, only upon and subject to all the terms and conditions of this Lease; provided, however, Lessee shall not sublease the Units to, or permit their use by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of the Code nor shall Units be used predominantly outside the United States of America within the meaning of section 48(a) of the Code.

Any such sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Units included in such sublease and the use thereof; provided, however, that every such sublease shall be subject to the rights and remedies of the Lessor under the Lease in respect of the Units covered by such sublease upon the occurrence of an Event of Default hereunder.

The Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except any sublease or car contract as aforesaid and other than an encumbrance resulting from claims against the Lessor not related to the ownership or leasing of the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Lessor or the Lessee therein. The Lessee shall also take all necessary action to protect the right, title, and interest of the Lessor in Units to be so subleased or used. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of this Section 13.

No sublease permitted in accordance with this Section 13 shall in any way relieve Lessee from any obligation under this Lease, and Lessee hereby waives any rights it may now have or hereafter acquire to avoid any such obligation by reason of such sublease or any circumstances arising from such sublease. Lessee agrees to indemnify and hold harmless Lessor against any and all reasonable out-of-pocket expenses, claims, demands and liabilities, of whatever nature, relating to or in any way arising out of such sublease, including, without limitation, reasonable out-of-pocket expenses incurred in recording Lessor's security interest in such sublease and in evaluating any proposed sublease, and all reasonable costs, damages, charges, attorneys' fees and expenses arising out of or necessitated by assertion of any such claim or demand with regard to such sublease.

14. PURCHASE OPTION

a. Generally. Provided (1) that no Monetary Event of Default (or an event which would constitute a Monetary Event of Default but for the lapse of time or the giving of notice or both) shall have occurred and be continuing, Lessee shall have the option to purchase all, but not less than all, of the Leased Equipment upon the expiration of the Lease Term for an amount equal to the lesser of the then Fair Market Value, as determined by an agreement between Lessor and Lessee, and if they cannot agree then as determined by the appraisal procedure set forth herein or thirty (30) percent of Lessor's Cost of the Leased Equipment, provided that Lessee gives Lessor notice in writing of its election to exercise such purchase option not less than 200 days prior to the expiration of the Lease Term. If Lessor and Lessee cannot agree on the then Fair Market Value of the Leased Equipment, Lessee shall not later than 160 days prior to the expiration of the Lease Term by notice in writing to Lessor, advise Lessor that Lessee desires to have such Fair Market Value determined by an independent appraiser satisfactory to Lessor and Lessee (or, if Lessor and Lessee are unable to agree upon an appraiser within 20

days after the giving of such notice, by a panel of three appraisers, one of whom shall be selected by Lessor, another of whom shall be selected by Lessee and the third of whom shall be selected by the other two or such appraiser shall be the American Appraisal Company, Milwaukee, Wisconsin, if such other two appraisers are unable to agree upon a third). The appraisers appointed pursuant to the foregoing procedure shall be appointed within 5 days and shall be instructed to determine Fair Market Value of the Leased Equipment within 30 days after their appointment. If the parties shall have appointed a single appraiser, his determination of value shall be final and binding as the Fair Market Value. If three appraisers shall have been appointed as hereinabove set forth, the values determined by the three appraisers shall be averaged, the determination which shall differ most from such average shall be disregarded, the remaining two determinations shall be averaged, and such average shall be final and binding as the Fair Market Value. At any time prior to the ninety-day period immediately preceding the expiration of the Lease Term, Lessee shall have the right to rescind its election to purchase the Leased Equipment by written notice to the Lessor. If the Lessee does not rescind its election, the Lessee shall purchase the Leased Equipment for the lesser of the then Fair Market Value determined as provided in this Section 14 or thirty (30) percent of the Lessor's Cost immediately upon the expiration of the Lease Term. Payment in full of the amount to be paid to Lessor shall be made in cash on or prior to the date such sale is consummated in accordance with this Section 14. Lessee shall pay for any appraisal made pursuant to this Section 14.

15. RETURN OF EQUIPMENT. In the event that Lessee does not exercise the purchase option described in Section 14.a. with respect to the Units, Lessee shall, at its own expense and risk, deliver possession of each Unit at one or more of up to three locations in the continental United States specified by Lessor. Each Unit shall, on its return, (i) contain additions, improvements or accessories added to such Unit as required in accordance with Section 7.c. hereof, (ii) be free of liens and (iii) be

in the same condition as when delivered and accepted hereunder, ordinary wear and tear excepted and in good operating order, repair, and condition in each case, as required by the terms of the Lease including, without limitation, Sections 7, 8 and 10 hereof. Lessor shall not abandon any Unit to Lessee or to any other person or entity.

16. DEFAULT. The following events shall constitute Events of Default hereunder:

(i) Lessee shall fail to make any payment of Basic Rent or Casualty Loss Value when due and such failure shall continue unremedied for a period of five (5) business days after such payment is due;

(ii) Lessee shall fail to cause reinstatement of cancelled insurance coverage or there shall occur any termination of, material alteration in the scope of the coverage of, or reduction in the amounts payable under any public liability insurance to be maintained by Lessee pursuant to Section 9 hereof and such failure, termination, alteration or reduction shall continue unremedied for a period of ten (30) days;

(iii) Lessee shall fail to make any other payment or perform or observe, in any material respect, any other covenant, condition or agreement to be performed or observed by it hereunder, or under any other agreement or instrument delivered by Lessee pursuant hereto or thereto, and such failure shall continue unremedied for a period of thirty (30) days after Lessee has been given notice thereof by Lessor. It is understood, however, that the loss by Lessor of anticipated tax benefits shall not constitute an Event of Default so long as Lessee is in compliance with the provisions of Paragraph 27 hereof;

(iv) Any representation or warranty made by Lessee herein, in any Certificate of Delivery and Acceptance or in any certificate furnished to Lessor in connection herewith or therewith or pursuant hereto or thereto, shall prove to be incorrect or misleading in any material respect when made, and which may have a materially adverse effect on Lessor;

(v) Lessee shall (i) apply for or consent to the appointment of a trustee, receiver, liquidator, custodian or the like of itself or its property, (ii) be unable, or admit in writing the inability, to pay its debts as they mature, (iii) make an assignment for the benefit of creditors, (iv) commence a voluntary case under a chapter of the Bankruptcy Reform Act of 1978, as amended, or file a petition or answer seeking reorganization or an agreement with creditors or to take advantage of any insolvency law or other law providing for the relief of debtors of an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding, or (v) take any corporate action for the purpose of effecting any of the foregoing; or

(vi) An involuntary case under a chapter of the Bankruptcy Reform Act of 1978, as amended, shall be commenced, or any other proceeding shall be instituted without the application, approval or consent of Lessee seeking reorganization, dissolution, winding up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator, custodian or the like of such party or of all or any substantial part of its assets or other like relief or the issuance of a writ of attachment, execution or similar process in a material amount against any material part of the property of Lessee and Lessee shall fail to contest such proceeding in good faith or such proceeding shall continue for any period of thirty (30) consecutive days.

17. REMEDIES.

a. Generally. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor may, at its option:

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

(2) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may personally, or through its agents, enter upon the premises of the Lessee or other premises, where any of such Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and possess the same free from any right of the Lessee or its successors or assigns or any sublessee to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is 180 days) and also to recover immediately from the Lessee as liquidated damages for loss of a bargain and not as a penalty whichever of the following amounts that the Lessor in its sole discretion shall specify, (i) the sum, with respect to each Unit, which represents

(x) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the Lease Term as to such Unit over the then present value of the Fair Market Rental Value of such Unit during such period (such present value to be computed in each case on the basis of a 10% per annum discount, compounded semi-annual for the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated) or (ii) an amount equal to the excess, if any, of the Casualty Value with respect to each Unit as of the Rental Payment Date on or closest to the date of termination over the then Fair Market Value of such Unit. In the event the Lessor shall have sold any Unit, the Lessee shall, if the Lessor shall so elect, pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit as of the Rental Payment Date on or next preceding the date of termination over the net proceeds of such sale in lieu of collecting any amounts payable by the Lessee pursuant to clause (ii) of the preceding sentence with respect to such Unit.

b. Other Amounts and Expenses. In addition, Lessee shall be liable for any and all unpaid Supplemental Rent due hereunder before, after or during the exercise of any of the foregoing remedies and for all reasonable legal fees and other costs and expenses incurred by Lessor by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including all costs and expenses incurred by Lessor in connection with the return of any Unit in accordance with the terms hereof or the placing of such Unit in the condition required hereunder.

c. Other Rights and Remedies. Except as otherwise expressly provided above, no remedy referred to in this Section 17 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity; and the exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all such other remedies. Although the remedies specified herein are cumulative, they are not intended by the parties hereto to allow the Lessor to obtain multiple recoveries pursuant to Section 17 or pursuant to any other Section of this Lease. Any failure or delay on the part of Lessor in exercising any such rights, remedy or power or abandonment or discontinuance of steps to enforce the same, shall not operate as a waiver thereof or affect Lessor's right thereof to exercise the same and any single or partial exercise of any such right, remedy or power shall not preclude any other or future exercise thereof or the exercise of any other right, remedy or power. No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to take any judicial proceedings in connection with the Leased Equipment or to give any notice or to sell, lease or otherwise use any Unit in mitigation of Lessor's damages as set forth in this Section 17 or which may otherwise limit or modify any of Lessor's rights or remedies under this Section 17.

18. REPRESENTATIONS AND WARRANTIES. Lessee represents and warrants to Lessor that:

(i) Lessee is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

(ii) Lessee has full power and authority to execute, deliver and perform this Lease, the Security Agreement, the Bills of Sale, the Certificates of Delivery and Acceptance and to own or lease its properties and to carry on its business as now conducted and as contemplated hereby.

(iii) This Lease has been duly authorized, executed and delivered by Lessee and constitutes the legal, valid and binding obligations of Lessee, enforceable against it in accordance with the terms hereof and thereof, subject, as to enforceability of remedies, to limitations imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity.

(iv) The Security Agreement, the Certificates of Delivery and Acceptance and the Bills of Sale have each been duly authorized by Lessee and, when executed and delivered by Lessee, will constitute the legal, valid and binding obligation of Lessee, enforceable against it in accordance with the terms thereof, subject, as to enforceability of remedies, to limitations imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the enforcement of creditors' rights generally and to general principles of equity.

(v) No authorization, consent or approval of, notice to or filing with any governmental authority is required for the execution, delivery and performance by Lessee of this Lease, the Security Agreement, or the Bills of Sale and the other instruments contemplated herein and therein.

(vi) Neither the execution, delivery or performance by Lessee of this Lease, the Security Agreement, the Certificates of Delivery and Acceptance, the Bills of Sale or the other instruments contemplated herein and therein, nor compliance with the terms and provisions thereof, conflicts or will conflict with or will result in a breach or violation of any of the terms, conditions or provisions of any law, governmental rule or regulation or the charter documents, as amended, or bylaws, as amended, of Lessee or any order, writ, injunction, or decree of any court or governmental authority against Lessee or by which it or any of its properties is bound or any indenture, mortgage or contract or other agreement or instrument to which Lessee is a party or by which it or any of its properties is bound, or constitutes or will constitute a default thereunder or will result in the imposition of any lien not permitted by this Lease upon any of its properties.

(vii) Except for those suits or proceedings previously disclosed to Lessor, there are none pending or, to the knowledge of Lessee, threatened in any court or before any regulatory commission, board or other governmental administrative agency against or affecting Lessee which could have a material adverse effect on its ability to fulfill its obligations hereunder or under the Security Agreement, the Certificates of Delivery and Acceptance, the Bills of Sale or the other instruments contemplated herein or therein.

(viii) Title to each Unit, immediately upon delivery and acceptance of such Unit hereunder, will validly vest in Lessor and, upon payment of the purchase price in full by Lessor, will be free of all claims, liens and encumbrances.

(ix) Lessee's principal place of business and chief executive office (as such terms are used in the Uniform Commercial Code) is located in Illinois.

19. REPORTS. Lessee shall give to Lessor the following:

(i) Within a reasonable amount of time after receiving a written request therefor, Lessee shall provide Lessor with a list of the railroad lines which have sublet the Units.

(ii) Within a reasonable amount of time after receiving a written request therefor, Lessee shall provide Lessor with the whereabouts of the Units so as to permit the Lessor or its agent access to the Units to inspect same.

(iii) Promptly after the same shall have come to the attention of a responsible officer of Lessee, notice of any claim, demand, action, legal proceeding or dispute that (A) involves the rights of Lessor hereunder, (B) involves the interpretation of any provision of this Lease or (C) directly or indirectly affects the tax or other liability or rights of Lessor or Lessee hereunder.

(iv) At least sixty (60) days prior thereto, notice of any change in Lessee's name and any change in the location of the principal place of business or chief executive office of Lessee.

(v) Promptly after the same shall have come to the attention of a responsible officer of Lessee, notice of the occurrence of any Event of Default and any event which, but for the lapse of time or the giving of notice or both, would be an Event of Default.

(vi) Within 120 days after the end of each fiscal year, a certificate of an authorized officer of Lessee stating that (A) a review of the activities of Lessee during the preceding twelve-month period has been made with a view to determining whether Lessee has kept, observed, performed and fulfilled all of its obligations under this Lease, and (B) to the best knowledge, information and belief of such officer, there has

occurred no Event of Default or event which, but for the lapse of time or the giving of notice or both, would be an Event of Default, or, if any such Event of Default or event has occurred, specifying the nature thereof, the period of continuance thereof and what action Lessee has taken or proposes to take with respect thereto.

(vii) Within 120 days after the close of each fiscal year of the Lessee a consolidating and a consolidated balance sheet and statement of changes in financial position of the Lessee at and as of the end of such fiscal year, together with a consolidated statement of income of the Lessee for such fiscal year, with comparative figures for the immediately preceding fiscal year, certified by independent public accountants of recognized international standing amongst the "Big 8" selected by the Lessee.

(viii) Within 60 days after the close of each of the first three quarters of each fiscal year of the Lessee a consolidated balance sheet and a consolidated income statement of the Lessee at and as of the end of such quarter with comparative figures for the corresponding period of the immediately preceding fiscal year, certified as presenting fairly the financial condition and results of operations of the Lessee by a financial officer of the Lessee empowered to do so.

For purposes of this Section 19, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of Lessee contained in this Lease, any corporate officer or other representative of Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

20. INDEMNITY.

a. Generally. Lessee shall indemnify and hold Lessor harmless from, and defend Lessor against, any and all claims relating to or any way arising out of this Lease or the possession, preparation, use, sublease, delivery, installation, operation, control, maintenance, or disposition of any Unit, including, without limitation, any claim arising by reason of latent and other defects, whether or not discoverable by Lessor or Lessee, or upon any infringement of any patent, copyright or similar right, or arising under the strict liability doctrine in tort or arising by reason of the existence, at the time Lessor takes possession of a Unit pursuant to Section 15 hereof, or any lien or right of third parties against such Unit, except, as to all of the foregoing, those claims relating to or arising out of Lessor's breach of this Lease or any Lessor Obligations. Lessor will make available to Lessee all of Lessor's rights under any similar indemnification from any Seller or manufacturer of the Leased Equipment. This indemnity, and all other indemnities of Lessee herein which arise from acts or events which occur prior to expiration or early termination of the Lease Term and return of the Leased Equipment pursuant to Section 15 hereof or purchase of the Leased Equipment pursuant to Section 14 hereof, shall survive the expiration or earlier termination of this Lease; provided, however, that the indemnity contained in this Section 20 shall not extend to any Imposition described in Section 11.a.

b. After-tax Basis. The indemnity amounts payable under Section 20.a. hereof shall be computed on an "after-tax" basis, so that any such indemnity payment shall be in an amount which, when reduced by the increase in the federal, state and local tax liability of the Lessor based upon or measured by Lessor's net income as a result of such payment, and after taking into account any present or future tax benefits to Lessor arising from such payment or the circumstances giving rise to such payment, shall equal the amount of the claim in respect of which

such indemnity is payable. Lessee may, within thirty (30) days of receipt of notice from Lessor of the amount of the indemnity amount payable request that an independent "big eight" public accounting firm mutually selected by Lessor and Lessee verify at Lessee's expense the computations performed by Lessor in determining the indemnity amount and Lessor shall provide such accountants with information necessary to perform such verification.

c. Control of Litigation; Subrogation. Provided no Event of Default shall have occurred and be continuing, Lessee shall have the right to control litigation related to any claim against Lessor for which Lessee would be liable under this Section 20, using legal counsel selected by Lessee and reasonably acceptable to Lessor, and to determine the settlement of claims; provided that (i) Lessor shall have reasonably determined that the action to be taken shall not result in the forfeiture or loss of any Unit, (ii) Lessee agrees on the basis of information then available that the claim referred to in this Section 20 is one against which the Lessee is obligated to indemnify Lessor under this Section 20, (iii) such litigation is diligently conducted by Lessee, (iv) Lessee shall provide security reasonably acceptable to Lessor at Lessee's request to assure performance of Lessee's obligations referred to in clause (ii) above. To the extent that Lessee has made an indemnity payment to Lessor pursuant to this Lease, Lessee shall be subrogated to Lessor's rights in the affected transaction. Any settlement of claims pursuant to this Section 20 shall be subject to approval by Lessor.

21. PAYMENT TERMS. Notwithstanding any provisions hereof to the contrary, any payment required under this Lease which is due on a day which is not a Business Day may be paid on the next day which is a Business Day. All payments to be made hereunder shall be made by wire transfer in accordance with the following instructions, or such other instructions as are delivered from time to time by one party to another party in accordance with Section 25 hereof:

If to Lessor: BarclaysAmerican/Leasing, Inc.
c/o Wachovia Bank and Trust Company
South Tryon Street Office
Charlotte, North Carolina
Account Number 9008370

If to Lessee: Trailer Train Company
c/o Manufacturers Hanover Trust Co.
270 Park Avenue
New York, New York 10017
Account Number 144-0-24116

22. LESSOR'S RIGHTS AND NONPAYMENT. If Lessee fails to make any payment to a party other than Lessor in connection with this Lease, or fails to perform or comply with any of its agreements contained herein, Lessor may, but shall not be required to, make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses incurred by Lessor in connection with such payment or the performance or compliance with such agreement, as the case may be, together with interest thereon at the Default Interest Rate, shall be deemed Supplemental Rent, payable by Lessee on demand. Any nonpayment of Rent or other amounts due under this Lease shall result in the obligation on the part of Lessee promptly to pay interest equal to the Default Interest Rate on the overdue Rent or such other amount for the period of time during which it is overdue.

23. FURTHER ASSURANCES. Lessee shall from time to time execute and deliver such further documents and assurances and take such further actions as Lessor may reasonably request (i) in order to carry out the intent and purposes of this Lease or (ii) to establish and protect Lessor's title to any Unit or the rights and remedies granted or intended to be granted in favor of Lessor under the terms of this Lease, a Bill of Sale or a Certificate of Delivery and Acceptance.

24. QUIET ENJOYMENT. Lessor covenants that Lessee and its permitted successors, sublessees and assigns, so long as no Event of Default has occurred and is continuing hereunder, may and shall peaceably and quietly have, hold, possess, use and enjoy the Units as provided in this Lease without suit, molestation or interruption by Lessor or by reason of Lessor's acts.

25. NOTICES. All notices herein required shall be given not later than the date required hereunder and shall be deemed to have been duly given when signed by an appropriate officer or other representative of Lessee or Lessor specifically authorized by Lessee or Lessor, respectively, and either delivered to an officer of Lessee or Lessor, or mailed prepaid by certified mail, return receipt requested, and addressed to the address indicated below for such party or to such other address as such party may designate in writing pursuant hereto:

If to Lessor: BarclaysAmerican/Leasing, Inc.
201 South Tryon Street
P. O. Box 31217
Charlotte, North Carolina 28231
Attention: Director of Credit and Administration

If to Lessee: Trailer Train Company
101 N. Wacker Drive
Chicago, Illinois 60606
Attention: Treasurer

26. GENERAL. This Lease shall be governed by the laws of the State of Illinois and constitutes the entire lease agreement between the parties. No other agreement, oral or written, express or implied, has been made between the parties hereto with respect to the subject matter hereof. If any provision of this Lease or the application thereof to any

party or circumstances is held invalid or unenforceable, the remainder of this Lease and the application of such provision to other parties or circumstances shall not be affected thereby, and to this end the provisions of this Lease are declared severable. No term or provision of this Lease may be changed, waived, discharged, or terminated orally. Any other change, waiver, discharge, or termination can be accomplished only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

27. TAX INDEMNITY.

a. Intended Tax Benefits. In entering into this Lease and the transactions contemplated hereby, it is the intention of Lessor and Lessee that such transactions will result in making available to Lessor the following tax benefits (the "Tax Benefits") for the purpose of determining its liability for income taxes imposed by the federal government of the United States:

(1) Lessor will realize the Tax Benefits described below based on the fact that, in part, the Lease constitutes a true lease under which Lessor will be considered the owner of each Unit and lessor of each Unit under the Lease, and Lessee will be considered the lessee of each Unit under the Lease;

(2) Lessor will be entitled to the credit allowed by Section 38 of the Internal Revenue Code of 1954, as amended ("Code") for "new section 38 property" equal to ten percent (10%) of the Lessor's Cost of each Unit (the "Investment Tax Credit");

(3) Lessor will have a basis in each Unit ("Lessor's Basis") under Code Section 1012 and related sections equal to ninety-five percent (95%) of the Lessor's Cost of such Unit;

(4) Lessor will be entitled to Accelerated Cost Recovery System deductions (the "Recovery Deductions") for "5-year property" aggregating the full amount of Lessor's Basis in each Unit under Code Section 168;

(5) All amounts taken into account with respect to the Lease in computing Lessor's gross income will be treated as income or loss derived from or allocable to sources within the United States;

(6) There will not be included in the gross income of Lessor any part of the cost of any improvement, modification or addition to any Unit made by Lessee whether or not required under the Lease; and

(7) The payments of Rent called for in the Lease will be included in Lessor's gross income only at the time Lessor actually receives the corresponding funds, assuming that Lessor has properly elected the cash receipts and disbursements method of accounting for federal income tax purposes.

b. Covenants by Lessee. 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 fail to take any action or file or fail to file any returns, certificates or other documents where any such action, failure to act, filing or failure to file would be inconsistent with the foregoing Tax Benefits, which would (i) increase the amount of Rent with respect to any Unit required to be taken into income by Lessor over the amounts specified to be payable under the Lease on the dates due thereunder with respect to such Unit, or (ii) be inconsistent with Lessor's claim to be the owner and lessor of the Units for federal income tax purposes. Lessee and such other corporations shall file such returns, take such action, execute such documents and keep and make available for inspection and copying by Lessor such records (other than Lessee's or its direct or indirect

parent's or subsidiaries' corporate income tax returns), or cause the same to be accomplished, all as may be reasonably requested by Lessor to facilitate accomplishment of the intent hereof. The covenants made by Lessee in this Section 27.b. refer solely to such acts or failures to act with respect to, its federal income tax returns and its assertions or statements made to the Internal Revenue Service ("Service") with respect thereto and corresponding state and local income tax returns for the State of Illinois or any other jurisdiction where the Lessee files and where such jurisdiction has tax provisions similar to relevant Federal tax provisions.

c. Representations and Warranties by Lessee. In connection with the foregoing, Lessee represents and warrants that: (A) on the Delivery Date of any Unit, such Unit will not have been used by any person so as to preclude "the use of such property" within the meaning of Section 48(b) of the Code from commencing with Lessor; (B) as of the Delivery Date of any Unit, no Investment Tax Credit or Recovery Deductions will have been claimed by any person with respect thereto; (C) throughout the Lease Term of any Unit, the Unit will constitute "Section 38 property" within the meaning of Section 48 of the Code before taking into consideration the nature or character or actions or failures to act of the Lessor; (D) on the Delivery Date of any Unit, the Unit will constitute "recovery property" and "5-year property" within the meaning of Sections 168(c)(1) and 168(c)(2)(B) of the Code for purposes of computing recovery deductions before taking into consideration the nature ~~and character of actions and failures to act of the Lessor;~~ (E) no "non-severable improvement", within the meaning of Section 4(4) of Rev. Proc. 75-21, 1975-1 C.B. 715, as modified by Rev. Proc. 79-48, 1979-2 C.B. 529, will be required in order to complete the Unit for its intended use by Lessee; (F) the Leased Equipment will be used during the Lease Term not predominantly outside the United States within the meaning of Section 48(a)(2)(A) of the Code; and (H) as of the date hereof it is a reasonable assumption that each Unit shall have (x) at least 20% of its estimated useful life remaining at the expiration of its Lease Term (y) a fair market value at the expiration of its Lease Term (such fair market

value being determined without including in such value any increase or decrease for inflation or deflation during such Lease Term and determined after subtracting from such value the cost, if any, for removal and redelivery of possession to the Lessor at the expiration of such Lease Term) equal to at least twenty percent (20%) of the Lessor's Cost of such Unit and (z) a commercially feasible use, at the expiration of its Lease Term, to the Lessor (or a purchaser or lessee therefrom unrelated to the Lessee), within the meaning of Revenue Procedure 75-21, 1975-1 Cum. Bull. 715, as modified in Revenue Procedure 75-28, 1975-1 Cum. Bull. 752 and Revenue Procedure 76-30, 1976-2 Cum. Bull. 647.

d. Indemnification and Adjustment of Values.

(1) Loss of Tax Benefits. Subject to the limitations set forth in this Section 27, if Lessor shall lose, or shall not have, or shall lose the right to claim, or shall suffer a disallowance of, or shall be required to recapture, all or any portion of the Tax Benefits with respect to all or part of any Unit due to (i) the incorrectness of any representation or warranty made by Lessee in this Agreement, the Security Agreement or in any certificate or written statement furnished to Lessor pursuant hereto or thereto (including, without limitation, those made in Section 27.c. hereof), (ii) the breach by Lessee of any of those covenants set forth in Section 27.b. hereof, or (iii) any act or failure to act by Lessee, which is not required by this Lease or Security Agreement, then Lessee shall make such loans (an "Indemnity Loan") or payments (an "Indemnity Payment") to Lessor and such other actions shall be taken, all as described in the remainder of this Section 27.d. and in Section 27.e.

(2) Limitations on Liability. No loans, payments or other actions referred to in Section 27.d.(1) shall be made or taken to the extent that Lessor shall have lost, or shall not have, or shall have lost the right to claim, or shall have suffered a disallowance of, or shall have been required to recapture all or any part of the Tax Benefits

with respect to all or part of the Units to which it would otherwise have been entitled to the extent such Tax Benefits have been lost because one or more of the following events has occurred:

(i) a Casualty Occurrence with respect to any Unit, if Lessee shall have paid the amounts stipulated under Section 12.c. of the Lease as the same may be revised pursuant to section 27.d.(5) hereof;

(ii) due to any act or failure to act of Lessor which is neither (A) required by the Lease or (B) required by applicable law if in response to a breach by Lessee of any of its obligations contained in the Lease or the Security Agreement or the incorrectness of any representation or warranty contained in either agreement or any certificate or written statement furnished pursuant thereto;

(iii) the failure of Lessor timely or properly to claim all or any portion of the Tax Benefits in its income tax return for the appropriate year, or the failure of Lessor to follow the appropriate procedure timely or properly to claim all or any portion of the Tax Benefits;

(iv) an amendment to or change in the Code or regulations thereunder which is enacted or adopted after the Delivery Date with respect to a Unit;

(v) any voluntary or involuntary transfer or other disposition by Lessor of any its interest in any Unit or the Lease hereunder other than transfers or dispositions arising pursuant to Lessor's exercise of its remedies pursuant to Section 17 hereof.

(3) Indemnity Loan. In the event that (i) an event described in Section 27.d.(1) occurs with respect to Section 27.a.(3), (4), (6) or (7), and (ii) the tax benefits to Lessor arising therefrom

are equal in amount to, and have the same character for federal income tax purposes as, the tax detriment arising therefrom, Lessee shall at its election, make Indemnity Loans to Lessor in amounts equal to the excess of (x) the additional federal income taxes payable by Lessor from time to time as a result of such event, over (y) any net reduction in federal income taxes (other than a reduction previously taken into account hereunder) realized previously or at such time, by Lessor attributable to a tax benefit arising from such event or any circumstances resulting in such event. Each Indemnity Loan shall be repaid without interest by Lessor to Lessee in the amounts and at the times that Lessor first realizes a net reduction in federal income taxes (other than a reduction previously taken into account hereunder) attributable to a tax benefit arising from the event with respect to which such Indemnity Loan was made or any circumstances resulting in such event. Any such Indemnity Loan shall be made by Lessee to Lessor on the next Rental Payment Date with respect to such Unit after the date which the liability of Lessee hereunder becomes fixed as provided in Section 27.e. Notwithstanding any other provision herein, if any Indemnity Loan is not treated as an interest-free loan under the Code and regulations in effect from time to time, Lessee shall make an Indemnity Payment to Lessor in the manner described in Section 27.d.(4) in the same manner as though an event described in Section 27.d.(1) had occurred; provided, however, that the applicable Tax Benefit loss shall be the treatment of the Indemnity Loan not as an interest-free loan and as such only an Indemnity Payment described in Section 28.d.(4), and not an Indemnity Loan shall be made with respect thereto.

(4) Indemnity Payment Generally. In the event that an event described in Section 27.d.(1) occurs, Lessee shall make an Indemnity Payment by paying to Lessor an amount computed as of the first Rental Payment Date with respect to such Unit after the date on which the liability of Lessee hereunder shall be come fixed as provided in Section 27.e. hereof, which after deduction of all income taxes, required to be paid by Lessor on such lump sum under the laws of the United States or

any state or political subdivision thereof, and after taking into account any present or future tax benefits (such as offsets resulting from any additional deductions or credits due to increased tax liabilities to any taxing authorities) and any Indemnity Loans made with respect to such event pursuant to Section 27.d.(3) hereof will maintain Lessor's net after-tax yield and total after-tax cash flows (computed over the entire life of this transaction on the same assumptions as utilized by Lessor in entering into this transaction including, without limitation, Lessor's composite marginal tax rate of 46%), each at the same level that would have been available if Lessor had been entitled to utilization of all of the Tax Benefits and had not incurred interest or penalties, if any, due to an event described in Section 27.d.(1) ("Lessor's Economic Return"). Any such Indemnity Payment shall be made, at Lessee's election, either (i) in a lump sum payment on such Rental Payment Date; or (ii) provided that Lessee shall first have provided Lessor with such security therefor as shall reasonably be requested by Lessor, in equal installments of principal, plus accrued interest thereon at the Reference Rate, on each remaining Rental Payment Date with respect to the affected Units.

(5) Payment After Expiration Date. Except with respect to a Casualty Occurrence for which the Casualty Loss Value is increased pursuant to Section 27.d.(6) hereof, if Lessee is obligated to make an Indemnity Payment with respect to a Unit to Lessor after the Expiration Date for such Unit (for example, because no such payment obligation had become fixed hereunder prior to such Expiration Date), then Lessee shall make such Indemnity Payment by paying to Lessor, as appropriate, in lieu of such payment or payments, on or before thirty (30) days after the liability of Lessee with respect to such Unit hereunder shall become fixed as provided in Section 27.e.; provided, however, that (i) such payments shall be calculated as of such date, and (ii) any Indemnity Payments may be made in a lump sum.

(6) Adjustment of Casualty Loss Values. Lessee acknowledges that the Casualty Loss Values provided for in the Lease have been computed on the assumption that Lessor shall be entitled to all of the Tax Benefits. Accordingly, in the event Lessee becomes obligated under the provisions of this Agreement to make an Indemnity Loan or Indemnity Payment to Lessor pursuant to this Section 27.d., said Casualty Loss Values shall be revised as may be necessary so that the amount payable by Lessee in connection with any Casualty Occurrence shall maintain Lessor's Economic Return upon payment of the Casualty Loss Value. The revised Casualty Loss Values shall be applied to any payment of Casualty Loss Value paid after the liability of Lessee hereunder shall become fixed as hereinafter provided, regardless of the date of the Casualty Occurrence. Furthermore, with respect to any payment of Casualty Loss Value made by Lessee prior to the aforementioned revision of such Casualty Loss Value with respect to the Units, Lessee shall pay to Lessor, or Lessor shall pay to Lessee, as the case may be, in a lump sum, the difference between (i) the Casualty Loss Value actually paid and (ii) the amount Lessee would have been required to pay had the liability of Lessee hereunder become fixed prior to the date of the original payment, and such Casualty Loss Value had accordingly been revised as above provided, together with interest at the Reference Rate from the date of such earlier payment to the date such difference is paid under this Section 27.d.(6).

(7) Verification of Lessor's Economic Return. Lessee may, within ninety (90) days of receipt of notice from Lessor of the amount of an Indemnity Loan or Indemnity Payment or a required adjustment in Casualty Loss Values pursuant to Section 27.d.(6) hereof, request that Lessor's "big eight" public accounting firm verify, at Lessee's expense, the computations made by lessor in determining the amount and terms of the Indemnity Loan and the amounts necessary to maintain Lessor's Economic Return with respect to an Indemnity Payment, and Lessor will provide such accountants with the information reasonably necessary to make such verification.

(8) No Lease Defaults. Neither a default by Lessee in its obligations set forth in Section 27.b., nor the incorrectness of any of Lessee's representations and warranties set forth in Section 27.c., shall be considered an event giving rise to an Event of Default under Section 16 of the Lease and the Lessor's sole remedy with respect to such default shall be pursuant to this Section 27.

e. Contesting Loss of Tax Benefits.

(1) Notice to Lessee. In the event that the appropriate taxing authority asserts that Lessor is not entitled to all or any portion of the Tax Benefits with respect to all or any part of any Unit, Lessor shall promptly notify Lessee in writing of such assertion. In addition, Lessor shall give to Lessee any information relating to such assertion which Lessor reasonably believes to be relevant and may be within the knowledge of Lessor.

(2) Contest. If (i) within thirty (30) days after Lessor gives notice to Lessee pursuant to Section 27.e.(1) hereof, Lessor receives (i) a request by Lessee in writing to contest such assertion in accordance herewith; (ii) an opinion of independent counsel selected by Lessee who is reasonably acceptable to Lessor (such acceptable counsel herein referred to as "Counsel"), that there is a reasonable basis for allowing all or a portion of the disallowed Tax Benefits with respect to a Unit or Units in respect of which Lessee would otherwise one required to make a loan or payment to Lessor pursuant to Section 27.d. hereof; (iii) Lessee shall first have indemnified Lessor for all reasonable expenses (including, without limitation, Lessor's reasonable attorneys' fees and expenses in connection therewith) which may be entailed therein, Lessor shall, upon the request of Lessee, contest such matter in such forum as Lessor, in its sole judgment, shall select. Lessor may take

such action prior to making payment of any tax and interest and/or penalty attributable to the disallowance or recapture with respect to Lessor of all or any portion of the Tax Benefits with respect to any Unit (a "Tax Payment"), or Lessor may make such Tax Payment and then sue for a refund. Lessor need not appeal any adverse decision unless Lessor shall have received from Counsel an opinion that there is a reasonable basis for concluding that part or all of the disallowed Tax Benefits should be allowed.

(3) No Election to Contest. If Lessee has not properly made an election to have Lessor contest the disallowance of Tax Benefits in the manner described in Section 27.e.(2) or if Lessee fails to continue to pursue such contest (as permitted hereby), then the liability of Lessee to make an Indemnity Loan or Indemnity Payment shall become fixed on the date Lessor makes the corresponding Tax Payment.

(4) Action Prior to Payment. If Lessor takes such action prior to making such Tax Payment, the Indemnity Loan and/or Indemnity Payment need not be made by Lessee while such action is pending; provided, however, that Lessee shall pay the reasonable expenses (including, without limitation, Lessor's reasonable attorneys' fees) relating to such action when and as the same shall become due. In such case, if the Final Determination (as such term is defined in Section 27.e.(7) hereof) shall be adverse to Lessor, the Indemnity Loan and/or Indemnity Payment hereunder shall be computed by Lessor as of the date of such Final Determination and shall be made by Lessee to Lessor in the manner described in Section 27.d.(3) and/or Section 27.d.(4).

(5) Action After Payment. If Lessor makes such Tax Payment prior to contesting the matter and then sues for a refund, Lessee shall either make an Indemnity Payment, or an Indemnity Loan in the amount of such Tax Payment (plus any gross-up with respect to interest or penalties included in such Tax Payment in the same manner as is described

in Section 27.d.(4)), to Lessor on the first Rental Payment Date after such Tax Payment is made. If Lessee has made an Indemnity Payment and if the Final Determination shall be (in whole or in part) in favor of Lessor, Lessee and Lessor shall, within thirty (30) days of the date of such Final Determination, adjust their accounts so that (i) Lessor pays to Lessee an amount equal to the sums theretofore paid by Lessee to Lessor (or a proportionate part thereof if thereon the Final Determination is partly adverse to Lessor) together with interest thereon at the rate then being paid on tax overpayments by the appropriate taxing authority from the date such sums were paid to Lessor by Lessee to the date Lessor pays to Lessee an amount equal to such sums, and (ii) Lessee pays to Lessor an amount, if any, which (after deduction of all taxes required to be paid by Lessor as a result of its receipt of such sums and after taking into account any present or future tax benefits (such as offsets resulting from any additional deductions or credits due to increased tax liabilities to any taxing authorities) and after taking into account Lessor's payment of the Tax Payment), the sum paid by Lessee to Lessor with respect to such claim, the amount paid by Lessor to Lessee pursuant to clause (i) of this Section 27.e.(5) and the refund, including interest and penalties and interest thereon, received by the Lessor from the taxing authority), will maintain Lessor's Economic Return. If Lessee has made an Indemnity Loan, and if the Final Determination shall be (in whole or in part) in favor of Lessor, Lessor shall, within thirty (30) days of the date of such Final Determination, pay to Lessee the amount to which Lessor is entitled from the Service, including interest, to the date of payment by Lessor to Lessee, attributable to such favorable Final Determination, plus the amount of the gross-up referenced above.

(6) Covenant of Cooperation. In any claim or litigation described in this Section 27.e., Lessor shall conduct such proceedings in good faith, shall give prompt notice to Lessee of all material developments therein and shall consult with Lessee or its authorized representative concerning said claim or litigation upon the reasonable

request of Lessee or such authorized representative. In addition, counsel for Lessee shall be entitled to participate in such litigation, provided that (i) subject to Section 27.e.(7), Lessor shall make all final decisions therein, and (ii) the extent and details of Lessee's counsel's participation shall be subject to the reasonable judgment of counsel for Lessor as to the conduct of the litigation.

(7) Final Determination. "Final Determination," for purposes of this Agreement, means a final decision of a court of competent jurisdiction after all allowable appeals required by Section 27.e.(2) hereof (other than an appeal or petition for certiorari to the Supreme Court of the United States, unless Lessor elects to file such appeal or petition) have been exhausted by either party to the action. Neither concession by Lessor of any of the aforementioned Tax Benefits in the overall settlement of a controversy with the appropriate taxing authority either at the administrative level or at the court level, nor the failure to recover in whole or in part with respect to the disallowance of such Tax Benefits which is the result of a setoff against a claim for refund based upon the loss of such Tax Benefits where the matters set off do not relate to such Tax Benefits, will constitute an adverse "Final Determination" causing the aforementioned additional payments to accrue to Lessor unless such overall settlement of a tax controversy either the appropriate taxing authority is approved by Lessee in a separate agreement between Lessor and Lessee. If Lessor settles such a tax controversy in such a manner that no Final Determination results, and Lessee has made an interest-free loan to Lessor in the manner described in Section 27.e.(5), Lessor shall within thirty (30) days after the date of such settlement, pay to Lessee the amount to which Lessee would have been entitled had Lessor been successful on the issue contested hereunder, including interest thereon which would have been paid or credited by the Internal Revenue Service to Lessor as a result of such successful contest.

28. DEFINITION OF LESSOR.

The term "Lessor," solely for purposes of any indemnity contained herein or any verification of any such indemnity payment shall include any affiliated group, within the meaning of Code Section 1504, of which Lessor is a member if consolidated returns are filed for such affiliated group for federal income tax purposes, or the comparable definition under a combined report for state income tax purposes.

29. EARLY TERMINATION OPTION

a. After five (5) years from the Basic Lease Term Commencement Date provided that no Event of Default (or an event which would constitute an Event of Default but for the lapse of time or the giving of notice or both) shall have occurred and be continuing, Lessee shall have the option to terminate the Lease with respect to all Leased Equipment if the Leased Equipment in Lessee's reasonable judgement has become surplus or obsolete to Lessee's requirements, then Lessee may, not less than 120 days before any Basic Rent Date, give notice to Lessor of its intention to terminate the Lease Term with respect to the Leased Equipment on any Basic Rent Date which occurs not less than 120 days after giving of such notice (the "Termination Date"). Such notice shall state the amount of Termination Value required to be paid by Lessee in respect of the termination of the Lease Term of Leased Equipment pursuant to Section 29.b. below determined in accordance with Exhibit G hereto and shall include a certificate signed by an officer or authorized signatory of Lessee stating that Lessee has determined that the Leased Equipment will be obsolete or surplus for continued use in Lessee's business on the Termination Date and that Lessee will discontinue use of the Leased Equipment on such date.

b. On the Termination Date, Lessee shall pay to Lessor in immediately available funds the sum of (i) the Termination Value in respect of the Leased Equipment determined as the Termination Date in accordance with Exhibit G hereto, (ii) all unpaid Basic Rent and

Supplement Rent excluding Termination Values which are covered in (i) above and other sums remaining unpaid under this Lease with respect to the Leased Equipment. If Lessee has paid Lessor such amounts and has paid all unpaid license, personal property, highway, use or other taxes, excises or charges that may have accrued with respect to Leased Equipment, then, and in such event, the obligation of Lessee to pay Basic Rent with respect to Leased Equipment after the Termination Date shall cease, and the Lease Term with respect to such Leased Equipment shall terminate on such Termination Date except for obligations which, by the terms hereof, expressly survive the termination hereof. Without limitation, Lessee's obligation to pay all unpaid license, personal property, highway, use or other taxes, excises or charges that may have accrued with respect to the Leased Equipment, but which are not yet payable at the time of the Termination Date, shall survive termination hereof. Lessee's obligations hereunder are absolute, separate and independent from the sale procedures set forth below and shall bind Lessee whether or not a sale actually occurs.

c. During the period from the giving of such notice until the Termination Date, Lessor may and Lessee shall use reasonable efforts to solicit and to obtain firm written bids for purchase of the Leased Equipment and each shall promptly submit to the other a copy of each and every bid so received by it and the name and address of the party submitting such bid.

d. On the Termination Date, Lessor shall, upon receipt of the items set forth in subparagraph (b) hereof, sell the Leased Equipment, free and clear of all rights of Lessor and Lessee, to the bidder named in the highest bid on an 'AS-IS, WHERE-IS" BASIS WITHOUT RECOURSE OR WARRANTY OF ANY KIND TO LESSOR.

e. At the closing of the sale, Lessor shall forthwith determine the Net Sales Proceeds (meaning the cash purchase price of the Leased Equipment received pursuant to Section 29.d. above less all

reasonable out-of-pocket expenses incurred by Lessor, if any, in connection with such sale, including fees and commissions, taxes, and any amount required to put any Unit in the condition of repair required pursuant to Section 15 hereof) and pay to Lessee an amount equal to the lesser of (i) Termination Value or (ii) the Net Sales Proceeds.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be duly executed as of the day and year first above written.

LESSOR:
[CORPORATE SEAL]
ATTEST:

L. D. Mason
Assistant Secretary

BARCLAYSAMERICAN/LEASING, INC.

By: *[Signature]*
Title:

LESSEE:
[CORPORATE SEAL]
ATTEST:

[Signature]
Assistant Secretary

TRAILER TRAIN COMPANY

By: *[Signature]*
Title:

DEFINITIONS

"Basic Lease Term Commencement Date" shall mean January 20, 1986.

"Basic Lease Rate Factor" shall mean 6.43406%.

"Basic Rent" for any Unit shall have the meaning as set forth in Section 5 hereof.

"Big 8 Accounting Firm" shall mean one of the following accounting firms: Arthur Anderson & Co., Arthur Young & Company, Price Waterhouse, Deloitte Haskins & Sells, Peat Marwick Mitchell & Co., Touch Ross & Co., Ernst & Whinney, Coopers and Lybrand.

"Bill of Sale" shall mean a bill of sale from Lessee to Lessor substantially in the form of Exhibit F annexed hereto.

"Business Day" shall mean a day on which banks are open for the conduct of banking business in the City of Charlotte, North Carolina and the City of Chicago, Illinois.

"Casualty Occurrence" shall mean any of the events referred to in Section 12.b. hereof.

"Casualty Loss Payment Date" shall have the meaning set forth in Section 12.c. hereof.

"Casualty Loss Value" for any Unit suffering a Casualty Occurrence shall mean an amount equal to that percentage of Lessor's Cost of such Unit set forth as a casualty loss factor in Exhibit C annexed hereto.

"Certificate of Delivery and Acceptance" shall mean a Certificate of Delivery and Acceptance substantially in the form of Exhibit D annexed hereto and covering the Unit or Units listed therein, executed by Lessee and acknowledged by Lessor.

"Claims" shall mean any lien, liability, obligation, loss, damage, penalty, claim, action, suit, cost, expense, or disbursement (including without limitation, reasonable legal fees and expenses) of any kind or nature.

"Daily Lease Rate Factor" shall mean .035744778%.

"Default Interest Rate" shall mean the per annum rate equal to 200 basis points over the prevailing 7-year United States Treasury Notes (computed on the basis of a 360-day year of twelve 30-day months), or the maximum interest rate permitted by law, whichever is less.

"Delivery Date" for any Unit, shall mean the date on which such Unit is delivered and accepted hereunder.

"Event of Default" shall mean any of the events referred to in Section 16 hereof.

"Expiration Date" shall mean January 20, 1996.

"Fair Market Rental Value" for any Unit shall mean an amount equal to the rental which would be obtained for such Unit in an arm's-length transaction between an informed and willing lessee-user (other than Lessee) and an informed and willing lessor under no compulsion to lease in a transaction taking place at a major market for such Unit. Fair Market Rental Value shall be determined on an "as-is, where-is" basis. Costs of removal from the location of current use shall not be a deduction from such value.

"Fair Market Value" shall mean an amount equal to the value of any Unit which would be obtained in an arm's-length transaction between an informed and willing buyer-user (other than Lessee or a used equipment dealer) and an informed and willing seller under no compulsion to sell. Fair Market Value shall be determined on the basis that such Unit is maintained in accordance with terms hereof, except in the event such determination is made pursuant to Section 17 hereof in which event such determination shall be on an "as-is, where-is" basis. Costs of removal from the location of current use shall not be a deduction from such value.

"First Delivery Date" shall mean the Delivery Date of the first Unit to be delivered and accepted hereunder.

"First Funding Date" shall mean the first Funding Date.

"First Rental Payment Date" shall mean January 20, 1987.

"Funding" shall mean the payment of Lessor's cost by Lessor pursuant to Section 3 hereof on a Funding Date, which amount shall not be less than Five Hundred Thousand Dollars (\$500,000.00).

"Funding Date" shall mean a date designated by Lessee in written notice to Lessor which shall be at least five (5) days after the date Lessor receives such notice upon which Lessor shall pay Lessor's Cost to Seller or Lessee with respect to each Unit purchased and leased hereunder.

"Initial Term" for any Unit shall mean the term of this Lease provided for in Section 4.a. hereof.

"Interim Rent Date" shall mean July 20, 1986.

"Last Rental Payment Date" shall mean July 20, 1996.

"Lease", "herein", "hereunder" or other like words, unless the context otherwise requires, shall mean and include this Equipment Lease Agreement, as the same may from time to time be supplemented or amended.

"Leased Equipment" shall mean collectively all Units subject to this Lease at any given time.

"Lessor's Cost" for any Unit shall mean the actual cost thereof to Lessor, including the cost specified in Seller's invoice therefor and any applicable state and local sales and use taxes paid by Lessor. Lessor's Cost with respect to the Leased Equipment shall be the sum of the amounts of Lessor's Cost with respect to all the Units. Lessor's Cost with respect to the Leased Equipment shall in no event exceed \$13,000,000.

"Lessor Obligations" shall mean (a) Lessor's obligation to purchase each Unit on its Delivery Date and pay Lessor's Cost of each Unit on its Funding Date, upon satisfaction of all conditions precedent thereto contained in Section 3.b. hereof, (b) Lessor's obligation to allow Lessee peaceable and quiet enjoyment of the Units as provided in Section 24 hereof, and (c) if and when Lessor is required to transfer title to such Unit to Lessee, such title will be free and clear of all liens and encumbrances which result from claims against Lessor.

"Monetary Event of Default" shall mean a default by Lessee in the payment of Rent which obligation is not secured with security reasonably acceptable to Lessor.

"Permitted Liens" shall mean (a) the rights of Lessor, (b) liens or encumbrances which result from claims against Lessor not related to the ownership of the Units or any interest therein, (c) liens for taxes either not yet due or being contested in good faith and by appropriate proceedings diligently conducted so long as such proceedings shall stay the enforcement thereof and the sale or forfeiture of any unit or any part thereof or interest therein and (d) undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or employees' liens or other like liens arising in the ordinary course of business and securing obligations which are not delinquent or which shall have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension).

"Pledged Assets" shall have that meaning set forth in the Security Agreement.

"Purchase Agreement" shall mean any purchase agreements or purchase orders for a Unit.

"Reference Rate" shall mean two percentage points over the reference rate in effect and announced from time to time by Barclays Bank PLC.

"Rent" shall mean Basic Rent and Supplemental Rent collectively.

"Rental Payment Dates" shall mean January 20, and July 20 of each year of the Lease Term commencing with the First Rental Payment Date and shall include the Last Rental Payment Date.

"Security Agreement" shall mean that certain Security Agreement between Lessor, Lessee and Continental Illinois National Bank and Trust Company executed contemporaneously herewith.

"Seller" shall mean the Lessee.

"Supplemental Rent" shall mean all amounts, liabilities and obligations which Lessee assumes or agrees to pay hereunder to Lessor or others, except Basic Rent.

"Termination Date" shall have that meaning set forth in Section 17 hereof.

"Unit" shall mean, unless the context otherwise requires, the equipment described as a "Unit" in Exhibit B annexed hereto and leased hereunder.

"Vendor" shall mean a railcar manufacturing company that sells a Unit to Lessee.

DESCRIPTION OF UNITS

<u>Vendor's Names</u>	<u>No. of Units</u>	<u>Description</u>	<u>Marks and Identification Numbers</u>
THRALL CAR MANU- FACTURING COMPANY	95	FIVE-UNIT ARTICULATED CONTAINER WELL CARS	TTX, Numbered 62000 - 62094

EXHIBIT C

The Casualty Value for a Unit as of any date, shall be an amount equal to the product of the (i) Lessor's Cost of such Unit and (ii) the percentage indicated below opposite the date indicated below next following the Casualty Occurrence and as applicable the Casualty Value shall be increased pursuant to Annex 1 to this Exhibit C.

TABLE I

Basic Lease Term Commencement Date

July 20, 1986	89.5617
January 20, 1987	93.9236
July 20, 1987	93.0277
January 20, 1988	91.7598
July 20, 1988	90.1254
January 20, 1989	88.0908
July 20, 1989	85.6609
January 20, 1990	82.8007
July 20, 1990	79.6242
January 20, 1991	76.3516
July 20, 1991	72.9440
January 20, 1992	69.4329
July 20, 1992	65.7792
January 20, 1993	62.0142
July 20, 1993	58.0986
January 20, 1994	54.0637
July 20, 1994	49.8699
January 20, 1995	45.5483
July 20, 1995	41.0594
January 20, 1996	36.4340

ANNEX 1 TO SCHEDULE C
(To Equipment Lease)

The percentages set forth in Table 1 to this Schedule C have been computed without regard to recapture of the Investment Credit provided for in Section 38 and related sections of the Internal Revenue Code of 1954, as amended. Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the first five anniversary dates following the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Lessor's Cost set forth below:

<u>Anniversary of Delivery and Acceptance</u>	<u>Percent Of Lessor's Cost</u>
1st	14.2590
2nd	11.4072
3rd	8.5554
4th	5.7036
5th	2.8518

ACKNOWLEDGMENT

This Certificate of Delivery and Acceptance No. ____ is hereby
acknowledged by Lessor this ____ day of _____, 19____.

Lessor:

BARCLAYSAMERICAN/LEASING, INC.

By: _____
Title:

2. Purchase Obligation. The opinion of counsel for Lessee on each Delivery Date subsequent to the First Delivery Date shall state the matters set forth in opinion (iv) of Section 1 of this Exhibit F(1).

3. Qualification and Reliance. In giving an opinion provided for herein, counsel for Lessee may qualify such opinion that any agreement is enforceable in accordance with its terms by a general reference to (i) limitations imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of lessors' or creditors' rights generally, (ii) to applicable laws limiting certain remedial provisions of the Lease which, in the opinion of counsel for Lessee, will not materially interfere with the practical realization of the benefits or security to be provided therefrom and (iii) to general principals of equity. Counsel for Lessee may further qualify such opinion by a limitation to the law of the State of Illinois and the laws of the United States.

EXHIBIT G

The Termination Value for a Unit as of any date, shall be an amount equal to the product of the (i) Lessor's Cost of such Unit and (ii) the percentage indicated below opposite the date corresponding to the Termination Date.

TERMINATION DATE

January 20, 1991	76.3516
July 20, 1991	72.9440
January 20, 1992	69.4329
July 20, 1992	65.7792
January 20, 1993	62.0142
July 20, 1993	58.0986
January 20, 1994	54.0637
July 20, 1994	49.8699
January 20, 1995	45.5483
July 20, 1995	41.0594
January 20, 1996	36.4340