



**WELLS FARGO EQUIPMENT LEASING CORPORATION**

13167

RECORDATION NO. .... Filed 1425 June 26, 1981

JUN 29 1981 - 12 00 PM

Secretary  
Interstate Commerce Commission  
Washington, D.C.

No. 1-180A118  
Date JUN 29 1981  
Fee \$ 50.00

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I.C.C.  
FEE OPERATION BR.

Dear Madame Secretary:

ICC Washington, D. C.

Enclosed for filing you will find six (6) fully executed copies (with original signatures) of the Lease Agreement dated as of June 26, 1981 between

Wells Fargo Equipment Leasing Corporation, LESSOR  
P.O. Box 44662  
San Francisco, California 94144

and

Volunteer Trailblazers, Inc., LESSEE  
P.O. Box 1251  
West Memphis, Arkansas 72301

The equipment covered by said Lease Agreement is as follows:

<u>Quantity</u>	<u>Bearing Road Numbers</u>	<u>Description</u>
24	NATX 73735 - NATX 73758 Inclusive	20,000 Gallon, Interior Coiled Tank Cars.
4	NATX 72877 - NATX 72880 Inclusive	20,000 Gallon, Exterior Coiled Tank Cars.

This is an original filing for this equipment. After filing please return the extra recorded copies of the Lease Agreement and this letter to the messenger tendering them to you.

Enclosed is the statutory filing fee of \$50.00

Very truly yours,

*David H. Renton*  
David H. Renton  
Assistant General Counsel

Enclosures

*Handwritten signature/initials on the left margin.*

**Interstate Commerce Commission**  
Washington, D.C. 20423

6/29/81

OFFICE OF THE SECRETARY

**David H. Renton**  
**Assistant General Counsel**  
**Wells Fargo Equipment Leasing Corp.**  
**425 California Street**  
**San Francisco, California 94104**

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 **6/29/81** at **12:00pm**, and assigned recordation number(s). **13167**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)

LEASE AGREEMENT

13167

RECORDATION NO. .... Filed 1425

JUN 29 1981 - 12 00 PM

(No. 3511912)

INTERSTATE COMMERCE COMMISSION

THIS LEASE AGREEMENT (this "Lease") dated as of June 26, 1981 between WELLS FARGO EQUIPMENT LEASING CORPORATION, a California corporation (the "Lessor"), and VOLUNTEER TRAILBLAZERS, INC., a Tennessee corporation (the "Lessee").

WITNESSETH:

The parties hereto agree as follows:

1. CERTAIN DEFINITIONS.

Acceptance Date of an Item of Equipment means the date on which such Item is accepted by the Lessee in accordance with Section 2(c).

Basic Rent for an Item of Equipment means the amount determined by multiplying the Delivered Cost of such Item by the applicable rental payment factor set forth in the Schedule (as that factor may be adjusted from time to time in accordance with the provisions of the Schedule).

Certificate of Acceptance means a certificate substantially in the form of Exhibit A evidencing acceptance of an Item of Equipment.

Code means the Internal Revenue Code of 1954, as in effect on the date of this Lease.

Delivered Cost means all amounts paid, payable or reasonably estimated to be payable to the Manufacturer, the Lessee or any contractor or any taxing authority for or in respect of the Equipment, including any applicable sales, use and similar taxes, and, subject to the Lessor's prior approval, transportation charges and assembly and installation costs.

Equipment means all of the equipment, machinery or other property described in the Schedule.

Event of Default means any of the events specified in Section 12.

Event of Loss means any event by which an Item of Equipment is lost, stolen, destroyed, irreparably damaged, rendered permanently unusable, condemned or confiscated.

Item of Equipment or Item means a distinct unit of the Equipment, including any accessions thereto.

Manufacturer of an Item of Equipment means the manufacturer, supplier or vendor from whom such Item is purchased.

Outside Acceptance Date means the date identified as such in the Schedule.

Person means an individual, partnership, corporation, trust, unincorporated organization or government (including any political subdivision or governmental agency).

Rent means all Basic Rent and all other obligations of the Lessee to pay money in accordance with the terms of this Lease.

Schedule means such lease schedule or schedules as may be executed from time to time by the Lessee and the Lessor with reference to this Lease.

Stipulated Loss Value means the amount computed by multiplying the Delivered Cost of an Item of Equipment by the percentage corresponding to the applicable rental payment date set forth in Exhibit B (as such percentage may be adjusted from time to time in accordance with the provisions of the Schedule or Section 11(c)(v)).

## 2. ACCEPTANCE AND LEASE.

(a) Lease. The Lessor leases to the Lessee and the Lessee leases from the Lessor, on the terms and subject to the conditions of this Lease, all Items of Equipment accepted by the Lessee in accordance with this Section.

(b) Inspection and Testing. The Lessee shall inspect and conduct appropriate tests of each Item of Equipment before the Lessee accepts it; provided that such testing will not result in the "original use" of such Item (within the meaning of Sections 48(b)(2) and 167(c)(2) of the Code) from commencing with any Person other than the Lessor.

(c) Acceptance; Conditions Precedent. The Lessee shall accept Items of Equipment on or before the Outside Acceptance Date by delivering to the Lessor on the initial Acceptance Date the documents listed as additional conditions precedent in the Schedule and on each Acceptance Date the following documents with respect to each Item, duly executed and dated as of such Acceptance Date and in form and substance satisfactory to the Lessor:

(i) a bill of sale or other document of title showing the Lessor as the owner;

(ii) a Certificate of Acceptance;

(iii) an original Manufacturer's invoice marked "Approved for payment" and signed by the Lessee; and

(iv) such other approvals, opinions and documents as the Lessor may reasonably request.

(d) Payment of Delivered Cost. So long as the Delivered Cost does not exceed the Maximum Delivered Cost set forth in the Schedule, the Lessor shall make timely payment of all amounts included in the Delivered Cost for each Item of Equipment accepted in accordance with Section 2(c).

3. TERM. The term of this Lease with respect to each Item of Equipment (the "Term") shall commence on its Acceptance Date and, unless earlier terminated as provided in this Lease, shall continue for the period set forth in the Schedule, and for all extensions and renewals of such period.

4. RENT.

(a) Rent. The Lessee shall pay Rent, in the amounts and at the times set forth in this Lease, to the Lessor at P. O. Box 44662, San Francisco, California 94144, or to such other Person or at such other place as the Lessor may designate by written notice to the Lessee.

(b) Late Charge. If the Lessee shall be more than five days late in the payment of Rent, the Lessee shall pay to the Lessor on demand a late charge equal to 5% of the unpaid amount plus interest thereon from the due date of such payment of Rent (without regard to any grace period) until paid at the rate of 12% per annum, or such lesser charge and at such lesser rate as may represent the maximum permitted by law.

(c) Duty to Pay Absolute. Until the Lessee's obligation to pay Rent has been terminated as provided herein, it shall be absolute, unconditional and without deduction, offset or abatement for any reason, and shall continue in full force and effect regardless of the Lessee's ability to use any Item of Equipment, any breach of this Lease by the Lessor or any other reason.

5. QUIET ENJOYMENT. The Lessor warrants that it shall not interfere with the Lessee's quiet enjoyment of the use of the Equipment so long as no Event of Default shall have occurred and be continuing.

6. LESSEE'S REPRESENTATIONS AND WARRANTIES. The Lessee represents and warrants as follows:

(a) Due Organization and Qualification. If the Lessee is not an individual, it has been duly organized and is validly existing under the laws of its state of organization and is duly qualified to do business in all jurisdictions where the failure to so qualify would have a material adverse effect upon the Lessee.

(b) Legal Power to Lease. The Lessee has the legal power, authority and right to enter into and perform this Lease.

(c) Corporate Approval. If the Lessee is a corporation, the execution, delivery and performance of this Lease by the Lessee have been duly authorized by all requisite corporate action and do not conflict with and will not result in a violation of its Certificate of Incorporation or By-Laws.

(d) Enforceability. This Lease constitutes a legal, valid and binding obligation of the Lessee enforceable against the Lessee in accordance with its terms, subject to any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally.

(e) No Violation of Law or Contract. The execution, delivery and performance of this Lease by the Lessee do not conflict with and will not result in a violation of any agreement, instrument, order, writ, judgment or decree to which the Lessee is a party or is subject, and such execution, delivery and performance will not result in the creation of any lien or encumbrance upon any of the Lessee's property.

(f) Government Approvals. No approval, authorization or other action by, or filing with, any governmental authority is required in connection with the execution and delivery of this Lease by the Lessee (except for any matters that may have been disclosed in writing by the Lessee to the Lessor, and, as to those matters, all necessary action has been taken).

(g) Actions and Proceedings. There are no pending or, to the best of the Lessee's knowledge, threatened actions or proceedings before any court, arbitrator or administrative agency that will materially and adversely affect the condition, business or operations of the Lessee or its ability to perform its obligations under this Lease.

(h) No Presumption of Fraud. If the transactions contemplated by this Lease constitute a sale-leaseback of the Equipment, they will raise no presumption of fraud under federal or state laws, including, without limitation, laws relating to fraudulent conveyances and bulk transfers, and will be effective against all of the Lessee's creditors.

(i) Financial Statements. All financial statements of the Lessee heretofore delivered to the Lessor in connection with this Lease have been prepared in accordance with generally accepted accounting principles, are true and correct in all material respects and fairly present the financial condition and the results of the operations of the Lessee as of the dates and for the periods reflected therein.

7. AFFIRMATIVE COVENANTS OF LESSEE. During the Term, the Lessee shall, unless the Lessor shall otherwise consent in writing:

(a) Location of Equipment. Cause the Equipment, when delivered, to be located or based where designated in the Schedule.

(b) Lessor's Inspection. At all reasonable times and upon reasonable notice permit the Lessor or its authorized representatives to inspect the Equipment and the books and records of the Lessee relating thereto. The Lessor shall have no duty to make any such inspection and shall not incur any liability or obligation by reason of not making any such inspection.

(c) Use. Permit the Equipment to be used only in the United States by qualified personnel for a purpose for which the Equipment was designed by the Manufacturer and in compliance with all laws, ordinances, regulations and insurance requirements relating to the use or operation thereof; provided that the presence of an Item of Equipment in Canada for no more than a total of 10 days in any calendar year shall not be a breach of this Section 7(c).

(d) Marking. On the Acceptance Date affix prominently to the Equipment and maintain thereon such labels, plates or decals as may be provided by the Lessor, or conspicuously mark the Equipment with such notices as the Lessor may reasonably request, to the effect that the Equipment is owned by the Lessor.\*

(e) Maintenance and Repair. At its sole expense, maintain the Equipment in the condition the Equipment was in when delivered to the Lessee, ordinary wear and tear excepted, in good operating order, and in compliance with all laws, ordinances, regulations and insurance requirements, with any Manufacturer's written recommendations as to repair and maintenance practices and with any specific maintenance and repair standards set forth in the Schedule. The Lessee shall replace all parts of the Equipment that become worn out, lost, stolen, destroyed, damaged beyond repair or otherwise rendered permanently unfit for use with replacement parts, each of which shall (i) be new, or, if used, in as good condition as the part being replaced (assuming the replaced part to have been maintained to the standards required by this Section), (ii) be free of all liens except those permitted by this Lease and (iii) immediately become the property of the Lessor. The Lessor shall not be obligated in any way to maintain, repair or rebuild the Equipment, and the Lessee expressly waives the right to perform any such actions at the expense of the Lessor pursuant to any law at any time in effect.

(f) Licensing and Registration. At its sole expense, obtain such licensing and registration of the Equipment as is required by federal, state and local law or regulation.

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\* For additional provisions, see Section IV.D. of the Schedule

(g) Insurance. At its sole expense, procure and maintain (i) public liability and property damage insurance with respect to the Equipment ("Liability Insurance") in amounts (including deductible amounts) consistent with prudent industry practice, its own practice or the Lessor's minimum insurance requirements, whichever provides the greater coverage, and (ii) "all risks" insurance against loss or damage to each Item of Equipment ("Loss Insurance") in an amount no less than its Stipulated Loss Value.

The policies of all such insurance shall (1) if Liability Insurance, name the Lessor as an additional insured and, if Loss Insurance, be payable to the Lessor; (2) provide for cancellation, adverse modification or lapse to be effective as to the Lessor only upon 30 days' prior written notice to the Lessor by the insurer; (3) waive the insurer's right to claim premiums from the Lessor; (4) as to the Lessor, be primary insurance and not require contributions from other policies held by the Lessor; (5) insure the interests of the Lessor regardless of the Lessee's breach or violation of any warranties, declarations or conditions contained in such policies; and (6) be written by insurers, and be in a form, reasonably satisfactory to the Lessor.

As between the Lessor and the Lessee it is agreed that all insurance payments received as the result of any property damage to the Equipment shall be applied in payment of (or to reimburse the Lessee for) repairs or replacement in accordance with Section 7(e) or the Lessee's obligations under Section 9, and (so long as no Event of Default shall have occurred and be continuing) any excess shall be paid to the Lessee.

Whenever the Lessee files a claim for insurance payments resulting from damage to, or total or partial loss or destruction of, the Equipment, the Lessee shall send a copy or summary thereof to the Lessor.

The Lessee shall furnish the Lessor on or before each Acceptance Date with certificates of insurers or independent insurance brokers satisfactory to the Lessor evidencing compliance with the requirements of this Section 7(g) for each Item of Equipment being accepted. At least 30 days prior to the renewal date for the insurance described in the certificates, the Lessee will furnish the Lessor with certificates evidencing the renewal of such insurance or its replacement with other insurance complying with this Section 7(g).

(h) Surrender. At its sole expense, return each Item of Equipment to the Lessor at the end of its Term by delivering the Item to the location or into the custody of the carrier designated by the Lessor within the state in which the Item was accepted by the Lessee or to which it was moved with the Lessor's consent. If the Item is delivered into the custody of a carrier the Lessee shall arrange for the shipping of the Item and its insurance in transit in accordance with the Lessor's instructions and

at the Lessor's sole expense. If the Item or its component parts were packed or crated for shipping when new, the Lessee, at its sole expense, shall pack or crate the Item or its component parts carefully and in accordance with any recommendations of the Manufacturer thereof with respect to similar new equipment before returning the Item to the Lessor. When the Item is returned to the Lessor, it shall be in the condition and repair required to be maintained under Section 7(e), shall be free of all evidence of advertising or insignia placed thereon by the Lessee, shall be free of all liens other than those in favor of the Lessor or any Person claiming through or under the Lessor. Upon written request of the Lessor, the Lessee shall provide free storage for one or more Items of Equipment for a period not to exceed 60 days before returning the Equipment to the Lessor. When the Lessee has returned an Item of Equipment to the Lessor in accordance with this Section 7(h) or has placed an Item in storage in accordance with the Lessor's written request, the risk of loss with respect to that Item shall pass to the Lessor.

(i) Personal Property. Ensure that the Equipment shall at all times be personal property regardless of whether it becomes affixed or attached to, or permanently rests upon, any real property or any improvement thereon.

(j) Financial Reports. Furnish the Lessor during the Term with annual audited financial statements within 120 days after the end of its fiscal year and such other financial information and reports, including reports filed with federal or state regulatory agencies, as the Lessor may reasonably request.

(k) Liens. Pay promptly all amounts claimed by any party that, if unpaid, might become a lien, charge, security interest or other encumbrance upon an Item of Equipment or the Lessee's leasehold interest in it, and discharge promptly any such lien, charge, security interest or other encumbrance that arises; provided that the Lessee shall not be required to pay any such amount or discharge any encumbrance in favor of the Lessor or any Person claiming through or under the Lessor, and provided further that the Lessee may in good faith and by appropriate proceedings contest the validity of any claim which contest does not in the reasonable opinion of the Lessor adversely affect its rights to all or any part of the Equipment.

8. NEGATIVE COVENANTS OF LESSEE. During the Term, the Lessee shall not, unless the Lessor shall otherwise consent in writing:

(a) Alterations. Make any additions, modifications or improvements to any Item of Equipment that will materially impair its commercial value or utility. All additions, modifications or improvements (except those that may readily be removed without material impairment of the commercial value or utility of any Item) shall

constitute accessions to such Item, shall be free from all liens except those permitted by this Lease, and shall immediately become the property of the Lessor.

(b) Waiver and Consent. Permit any Item of Equipment to be installed on any property or in any facility unless there shall have been delivered to the Lessor a waiver and consent in form and substance satisfactory to the Lessor from each Person holding an interest in such property or facility (other than holders of mechanics', materialmen's and similar liens).

(c) Merger; Reorganization. Merge or consolidate with or into, or sell or otherwise transfer all or substantially all of its assets to, any Person, but the Lessor shall not withhold unreasonably its consent to such a reorganization.

9. LOSS. If an Item of Equipment shall suffer an Event of Loss, the Lessee shall immediately so notify the Lessor. On the rental payment date next following the date that an Event of Loss is determined to have occurred in accordance with industry standards (the "Payment Date"), the Lessee shall pay to the Lessor an amount equal to the sum of (i) the Stipulated Loss Value of such Item on the Payment Date, (ii) the installment of Basic Rent with respect to such Item that falls due on the Payment Date and (iii) all other Rent with respect to such Item due but unpaid on or prior to the Payment Date. Upon payment of such amount, the Term for such Item shall end, no further Basic Rent with respect to such Item shall be payable, and, so long as no Event of Default shall have occurred and be continuing, the Lessor shall either, at its sole option, assign to the Lessee all of the Lessor's right, title and interest in and to such Item, without representation or warranty except that such Item is free of all liens created by the Lessor, or sell the Item and, after deducting the Lessor's out-of-pocket sale costs, pay to the Lessee so much of the sale proceeds as shall not exceed the Stipulated Loss Value of such Item paid by the Lessee.

10. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES. AS BETWEEN THE LESSEE AND THE LESSOR, THE LESSEE SHALL ACCEPT EACH ITEM OF EQUIPMENT AS IS, AND THE LESSOR HAS NOT AND SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, CONDITION, DESIGN, VALUE, OPERATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OF ANY ITEM OF EQUIPMENT, OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ITEM OF EQUIPMENT, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee. The Lessee confirms that it has selected the Equipment on the basis of its own judgment and has not relied on any statements, representations or warranties of the Lessor as to

the Equipment, and further acknowledges that the Lessor is not the Manufacturer of, or a dealer in, the Equipment. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the Term to assert and enforce from time to time, in the name of and for the account of the Lessor and the Lessee, as their interests may appear, at the Lessee's sole expense, whatever claims and rights the Lessor may have against the Manufacturer or any other third party; provided that if at any time an Event of Default shall have occurred and be continuing, such appointment shall automatically be suspended.

11. INDEMNITIES.

(a) General Indemnity. The Lessee hereby assumes liability for, and agrees to defend, indemnify and hold harmless the Lessor, its successors, assigns, employees, agents, shareholders and affiliates (each an "Indemnified Person") from and against any and all obligations, actions, suits, penalties, claims, demands, costs and expenses (including attorneys' fees and expenses) of any nature whatsoever which may be imposed on, incurred by or asserted against an Indemnified Person in any way relating to or arising or alleged to arise out of the delivery, performance or enforcement of this Lease or with respect to the Equipment, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, financing, purchase, acceptance, rejection, ownership, delivery, non-delivery, leasing, possession, use, operation, repair, transportation, condition, sale, return, repossession (whether by summary proceedings or otherwise), or any other disposition of an Item of Equipment or any part thereof; (ii) any latent and other defects whether or not discoverable by an Indemnified Person or the Lessee; (iii) patent, trademark or copyright infringement; and (iv) any injury to or the death of any person or any damage to or loss of property, including claims based on strict liability in tort; but excluding those of the foregoing arising solely out of events occurring after the expiration of the Term and after the Lessee's discharge of all of its obligations under this Lease. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of any such claim or liability. The Lessee and the Lessor agree to give each other prompt written notice of any claim or liability hereby indemnified against, but the giving of any such notice by the Lessor shall not be a condition to the Lessee's obligations under this Section 11(a). The Lessee shall not be liable to indemnify an Indemnified Person to the extent that such Indemnified Person's willful misconduct or gross negligence caused the claim or liability giving rise to an indemnity under this Section 11(a). After an Indemnified Person has been fully indemnified against a claim pursuant to this Section 11(a) and so long as no Event of Default shall have occurred and be continuing, the

Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the claim against which indemnity has been given. Nothing contained herein shall be deemed to be a guarantee by the Lessee to the Lessor that the Equipment will have any residual value.

(b) General Tax Indemnity.

(i) Definition of Taxes. The Lessee hereby assumes liability for, and agrees to defend, indemnify and hold the Lessor harmless from and against any and all license, documentation, recording and registration fees, and any and all taxes, levies, imposts, duties, assessments, fees, charges and withholdings of any nature whatsoever, whether or not presently in existence, together with any penalties, fines, additions to tax or interest thereon, imposed by any government or taxing authority anywhere in the world (collectively referred to as "Taxes") upon or with respect to (1) any Item of Equipment or any part thereof; (2) the manufacture, financing, purchase, acceptance, rejection, ownership, delivery, non-delivery, leasing, possession, use, operation, repair, transportation, condition, sale, return, repossession (whether by summary proceedings or otherwise), or any other disposition of an Item of Equipment or any part thereof; (3) the rentals, receipts or earnings arising from any Item of Equipment or any applications or dispositions thereof; and (4) this Lease or any related documents; but excluding each of the following:

(A) United States federal, state and local taxes (including franchise taxes) based upon or measured by the net income of the Lessor (except to the extent that a Tax Loss is indemnified by the Lessee pursuant to Section 11(c);

(B) Taxes on items of tax preference that are payable with respect to the transactions contemplated by this Lease to the state or political subdivision thereof in which the Lessor has its principal place of business;

(C) Taxes imposed as a result of a voluntary transfer or disposition by the Lessor of any Item of Equipment or any part thereof (other than any transfer or disposition (1) resulting from the exercise by the Lessee, or any Person claiming any right through the Lessee, of the Lessee's rights under this Lease, (2) at a time when an Event of Default shall have occurred and be continuing or (3) pursuant to the written consent of the Lessee);

(D) Taxes imposed on the Lessor as a result of its transfer or disposition of any interest in the Equipment as a result of bankruptcy or other similar proceedings, whether voluntary or involuntary, in which the Lessor is the debtor; and

(E) Taxes imposed for any period commencing after the Term and not relating to events or matters which occurred during the Term.

In the case of any Taxes that are reported on a consolidated or combined basis by the Lessor and its affiliates, the amount of the indemnity under this Section 11(b) shall be computed with reference to the rules applicable to the consolidated or combined return.

The Lessor shall forward promptly to the Lessee all written notices of Taxes assessed against it. Except when the Lessor determines to resist payment as provided in subsection (ii) below, the Lessee shall pay all amounts due under this Section 11(b) within 10 days after the receipt of notice from the Lessor or relevant taxing authority that such payment is due.

The Lessee further agrees to pay any Taxes imposed upon the Lessor by reason of any indemnity payments by the Lessee pursuant to this Section 11(b).

(ii) Contest. The Lessee may, within 30 days after receipt of a notice that Taxes are due, make a written demand of the Lessor that it shall contest its liability for such Taxes. The Lessor shall, in good faith and at the Lessee's sole expense, contest the claim, select the forum for such contest, determine whether to resist payment or to pay such Taxes and seek a refund in appropriate administrative or judicial proceedings, and otherwise control such contest; provided that the Lessor may refuse to take any such action unless and until (A) it shall have received a bond or other indemnity satisfactory to it for any liability, expenses or loss arising out of or related to such contest (including, without limitation, indemnity for all costs, expenses, losses, reasonable legal and accounting fees and disbursements, penalties and interest) and (B) it shall have determined that the action to be taken will not result in any danger of sale, forfeiture or loss of, or the creation of any lien (except if the lien shall be bonded) on all or any part of the Equipment or any interest in it.

(c) Indemnity for Loss of Tax Benefits.

(i) Indemnity. If as a result of any Cause of Tax Loss set forth in the Schedule the Lessor shall not be entitled to all Assumed Income Tax Benefits set forth in the Schedule, or any of those Benefits shall at any time be recaptured, disallowed or lost, or the Lessor shall be required to include in gross income amounts with respect to the transactions contemplated by this Lease, other than (A) Basic Rent in the amounts and at the times specified in the Schedule, (B) any indemnity payment pursuant to this Section 11 at the time of actual receipt by the Lessor, or (C) any Stipulated Loss Value payment under Section 9 at the time of actual receipt by the Lessor (any such failure of entitlement, recapture or inclusion in gross income being herein called a "Tax

Loss"), then the Lessee shall indemnify the Lessor for the amount of the Tax Loss in accordance with this Section 11(c).

(ii) Amount of Indemnity.

(1) Payments by Lessee. - In the case of any Tax Loss, the Lessee shall pay to the Lessor such amount as shall be necessary, after deduction of all Taxes required to be paid by the Lessor in respect of the receipt or accrual of such amount, to permit the Lessor to preserve both the net after-tax yield and net after-tax earnings for each year that the Lessor would have realized had the Tax Loss not occurred (but considering only the fact that the Tax Loss has occurred).

(2) Payments by Lessor. If, by reason of a refund or reduction of federal, state or local or franchise taxes attributable to a Tax Loss or attributable to any contest of a Disallowance (as defined in Section 11(c)(iv), the amount of indemnity paid to the Lessor pursuant to Section 11(c)(ii)(1) exceeds the amount necessary to permit the Lessor to preserve both the net after-yield and net after-tax earnings in each year that the Lessor would have otherwise realized had the Tax Loss not occurred, and so long as no Event of Default has occurred and is continuing, the Lessor shall refund to the Lessee such excess amount; provided that the Lessor shall not be required to refund any amount, that, taken together with other refunds made by the Lessor in respect of the same Tax Loss or contest, exceeds the total amount of the indemnity paid by the Lessee with respect to that Tax Loss, plus any interest received by the lessor that is attributable to that amount being refunded. If all or part of a refund or reduction of federal, state or local income or franchise taxes in respect of which the Lessor has made a payment to the Lessee pursuant to this Section 11(c)(ii)(2) shall at any time be recaptured, disallowed or lost for any reason (whether or not a Cause of Tax Loss) such recapture, disallowance or loss shall be deemed to be a Tax Loss.

(iii) Time of Payment. Any amount payable to the Lessor pursuant to this Section 11(c) shall be paid not later than 10 days after receipt of a written demand therefor from the Lessor (but not prior to the earlier of (A) payment by the Lessor of the additional federal, state or local income or California income or franchise tax (including payments of estimated tax), as the case may be, which shall become due as a result of such Tax Loss, or (B) the date the Lessor shall suffer a reduction in the amount of any refund of federal, state or local income or franchise tax which the Lessor would have been entitled to receive but for such Tax Loss), accompanied by a description of such Tax Loss and a computation of the amount so payable.

(iv) Contests. The Lessor shall promptly notify the Lessee of all written notifications of any proposed assessment or other action which would result in a Tax Loss for which an amount may be payable by the Lessee in accordance with this Section 11(c) (a "Disallowance").

The Lessor shall be under no obligation whatsoever to contest any Disallowance, unless:

(A) The Lessee shall request the Lessor to contest the Disallowance within 30 days after receipt by the Lessee of the Lessor's notice and within 30 days thereafter independent tax counsel selected by the Lessee and reasonably acceptable to the Lessor shall render a written opinion that the Lessor has a meritorious claim to the tax benefits that are the subject of the Disallowance; and

(B) The Lessee shall agree to pay to the Lessor on demand all costs and expenses, including, without limitation, legal fees and expenses, incurred by the Lessor in connection with contesting the Disallowance.

The Lessor, at its sole option, may choose to forego any and all administrative appeals, proceedings, hearings and conferences with the relevant taxing authority in respect of such Disallowance but shall contest the Disallowance in good faith in a court of competent jurisdiction, which court shall be selected by the Lessor at its sole option. Counsel selected by the Lessor shall conduct the contest and control of the contest shall be in the absolute and sole discretion of the Lessor and such counsel; provided that the Lessor will consider in good faith requests from the Lessee concerning the conduct of the contest.

If the Lessor elects to contest the Disallowance by paying the tax claimed (including for the purposes hereof any interest and penalties payable with respect thereto) and by seeking a refund thereof, the amount so paid shall be deemed to have been paid in respect of a Tax Loss and the Lessor shall be entitled to indemnity under Section 11(c)(ii)(1) at the time the tax is paid. If any of the tax is so paid by the Lessor is later refunded by the taxing authority, the Lessee shall be entitled to a refund under Section 11(c)(ii)(2) at the time the Lessor receives the refund.

The Lessor may at any time forego or discontinue any contest that it would otherwise be required by this Section 11(c) to pursue by waiving the Lessee's liability for any indemnity under this Section 11(c) and by immediately refunding any indemnity payments already made.

(v) Adjustment of Stipulated Loss Value. The Lessor shall, if necessary, recompute Stipulated Loss Value, in accordance with the manner in which such values

were originally computed, to reflect all indemnity payments actually made pursuant to this Section 11(c). The Lessor shall certify to the Lessee the new values to be substituted for the values set forth in this Lease, and shall describe in the certificate the manner in which such new values were computed.

(vi) Affiliated Group. For purposes of this Section 11(c) the term "the Lessor" refers to the affiliated group of corporations of which the Lessor is a member that files a consolidated or combined income tax return and each member thereof.

(d) Survival of Indemnities. The Lessee's indemnities under this Section 11 shall be effective whether or not any of the transactions contemplated by this Lease shall be consummated and shall survive the expiration or earlier termination of this Lease.

12. EVENTS OF DEFAULT. The occurrence of any of the following events shall constitute an Event of Default hereunder:

(a) The Lessee shall fail to make any payment of Rent within five days after its due date; or

(b) The financial statements furnished to the Lessor by or on behalf of the Lessee or the Guarantor or any representation or warranty made by the Lessee herein or in connection herewith shall prove to be incorrect in any material respect when made; or

(c) The Lessee shall make any unauthorized assignment, transfer or sublease of any Item of Equipment or of its interest in this Lease or shall fail to surrender the Equipment when required under the terms of this Lease; or

(d) The Lessee shall fail to maintain insurance as required under Section 7(g); or

(e) The Lessee shall fail to observe or perform any other covenant, condition or agreement contained herein, and such failure shall continue for 20 days after written notice from the Lessor to the Lessee specifying the failure and demanding that it be remedied; or

(f) A court having jurisdiction shall enter a decree or order for relief in respect of the Lessee or the Guarantor in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Lessee or the Guarantor or for any substantial part of its property, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(g) The Lessee or the Guarantor shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in any involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Lessee or the Guarantor or of any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due or shall take any corporate action in furtherance of any of the foregoing; or

(h) Any event listed as an Event of Default in the Schedule shall occur.

13. CURE AND ASSUMPTION OF LEASE BY GUARANTOR.

(a) Forebearance if Guarantor Cures. Except as provided in Section 13(b), the Lessor shall forbear exercising its remedies under Section 14 arising out of an Event of Default if, and so long as, (i) within 4 days of such Event of Default the Guarantor shall have paid in full any unpaid monetary obligation then due under this Lease, or (ii) as promptly as reasonably possible, but in any event within 180 days, the Guarantor shall have cured any other Event of Default under this lease which the Guarantor is reasonably capable of curing after notice of such event; provided, however, that if the Guarantor is proceeding with due diligence to assume the Lease as Lessee, the Guarantor shall not be required to cure any Event of Default under this Lease caused by any action or inaction on the part of the Lessee which Event of Default cannot be cured by any action of the Guarantor or the cure of which would require information or knowledge known only to the Lessee or within the exclusive possession of Lessee and which the Guarantor cannot obtain with reasonable diligence and at reasonable expense; provided further that the Lessor will not be precluded from exercising its remedies hereunder with respect to an Event of Default occurring as the result of any proceeding of the nature described in Sections 12(f) or 12(g) against the Guarantor or an Event of Default described in Section IV.C. of the Schedule.

(b) Maximum Number of Cures. The Lessor shall be permitted to exercise its remedies under Section 14 without regard to the limitation contained in Section 13(a) upon the occurrence of the fourth consecutive failure by the Lessee to pay Basic Rent when due or upon the occurrence of the seventh failure to pay when due any monetary obligation under this Lease.

(c) Guarantor's Right to Assume Lease After Cure; Conditions Precedent. The Guarantor shall not be required, as a condition to the assumption provided for in the next succeeding sentence hereof, to cure any Event of Default under this Lease caused

by any action or inaction on the part of the Lessee which Event of Default cannot be cured by any action of the Guarantor or the cure of which would require information or knowledge known only to the Lessee or within the exclusive possession of the Lessee and which the Guarantor cannot obtain with reasonable diligence and at reasonable expense. At any time after the Guarantor shall have made any payment under Section 13(a)(i) or cured any other default pursuant to Section 13(b)(ii), the Guarantor, at its option, may assume all the obligations of the Lessee hereunder, provided that it complies with the following procedures:

(i) the Guarantor certifies to the Lessor that it is not then in default in respect of any obligation for the payment of principal and interest in respect of borrowed money, any conditional sale indebtedness or any equipment trust obligations;

(ii) the Guarantor certifies to the Lessor that upon such assumption it will not be in default under this Lease which certification shall be accompanied by an opinion of Messrs. Pedersen & Houpt, a professional corporation, or other independent counsel acceptable to the Lessor, to the same effect;

(iii) the Guarantor directly assumes all the obligations of the Lessee under this Lease which assumption agreement will, at the option of the Guarantor and without any approval of the Lessor, provide that those Sections of this Lease listed in Exhibit A to the Guaranty will be amended on and as of the effective date of such assumption agreement to read as is provided in said Exhibit A; and

(iv) the Guarantor delivers to the Lessor an opinion of Messrs. Pedersen & Houpt, a professional corporation, or other independent counsel acceptable to the Lessor, to the effect that such assumption agreement has been duly authorized, executed and delivered by the Guarantor and constitutes a legal, valid and binding obligation of the Guarantor, enforceable in accordance with its terms (except to the extent limited by any bankruptcy or other similar laws) and within 30 days thereafter shall have, if requested so to do by the Lessor, caused such assumption agreement to be filed and recorded with the Interstate Commerce Commission in accordance with the provisions of 49 USC Section 11303.

The Lessor agrees to execute and deliver the above-mentioned assumption agreement within a reasonable period after tender thereof to it by the Guarantor, provided that it complies with the provisions of the foregoing paragraph and is otherwise in form and substance satisfactory to the Lessor and all the other procedures referred to above have been complied with. The Lessee agrees that, upon execution and delivery of such assumption agreement by the Lessor and the Guarantor, the Lessee's leasehold interest in and to the Items shall automatically terminate and

the Lessee will promptly deliver possession of the Items to the Guarantor and will convey, transfer or assign to the Guarantor all of or any portion thereof requested by the Guarantor the Lessee's right, title and interest in any subleases, car contracts or other agreements with respect to the Items and take any other action and execute any documents reasonably requested by the Guarantor or the Lessor; it being understood and agreed, however, that the obligations of the Guarantor under such assumption agreement this Lease shall not be conditioned upon or affected in any way by the failure of the Lessee to comply with the provisions of this sentence.

(d) Elements of Cure. Compliance by the Guarantor with clauses (i) through (iv) of Section 13(c) and the execution and delivery of the above-mentioned assumption agreement by both the Guarantor and the Lessor shall for the purposes of this Lease constitute a cure of any Event of Default occurring as the result of a proceeding of the nature described in Sections 12(f) or 12 (g) against the Lessee.

(e) Notice of Event of Default to Guarantor. The Lessor agrees to notify the Guarantor promptly in writing upon its becoming aware of any condition or event which constitutes an Event of Default hereunder; provided, however, that the failure of the Lessor so to give any such notice shall not in any way release the Guarantor from or diminish any of its obligations under the Guaranty.

(f) The Term Guarantor Shall Mean Lessee After Assumption. Upon assumption of this Lease by the Guarantor pursuant to the Guaranty and Section 13(c), the term Lessee shall mean the Guarantor.

14. REMEDIES. Upon and after the occurrence of an Event of Default, the Lessor may, in addition to exercising any other remedies now or later allowed by law:

(a) Declare all unpaid Rent to be immediately due and payable.

(b) Proceed by appropriate court action to enforce performance by the Lessee of the provisions of this Lease or to recover damages for their breach.

(c) Without court order or prior demand of the Lessee take possession of all or part of the Equipment wherever found and, for this purpose, enter upon any premises of the Lessee without any liability to the Lessee for such action.

(d) Use, hold, sell, lease or otherwise dispose of all or part of the Equipment on the Lessee's premises or elsewhere and recover from the Lessee, in addition to any other amounts owed by the Lessee hereunder, all of the costs and expenses incurred in so disposing of the Equipment, including the cost of repairing and maintaining the Equipment to the standard described in Section 7(e). Any disposition of the Equipment shall take place at such time and upon such terms as the Lessor may determine and shall be free and clear of all rights of the Lessee. Any sale of the Equipment may be

by public auction or by private sale and, if any written notice to the Lessee of a sale or lease is legally required, notice mailed to the Lessee at least 10 days prior to the sale or lease shall constitute reasonable notice.

(e) Terminate this Lease by written notice to the Lessee as to any or all Items of Equipment, and recover from the Lessee, as liquidated damages for loss of a bargain and not as a penalty, with respect to each Item as to which this Lease is terminated:

(i) all unpaid Basic Rent accrued to the date of termination (the Basic Rent for any period less than a full rental period to be the proportionate share of the Basic Rent for the full rental period);

(ii) any expenses incurred by the Lessor in connection with the repossession, holding, repair and subsequent sale, lease or other disposition of such Item, including reasonable attorney's fees and expenses;

(iii) all other unpaid amounts accrued in connection with this Lease before or after the date of termination; and

(iv) at the Lessor's sole option either (x) the amount by which the amount that would be owed by the Lessee pursuant to Section 9 had such Item of Equipment suffered an Event of Loss on the termination date exceeds the fair market value of such Item, or (y) the amount by which the present value of all Basic Rent that would have accrued after the termination date had this Lease not been terminated exceeds the present value of the fair rental value of such Item. Such present value shall be determined by applying, with the same frequency as the rental payment dates set forth in the Schedule, a discount rate of 7% per annum and shall be determined at the time an award of damages under this Section 14(e) is awarded or agreed, or when the Lessor disposes of the Item of Equipment to a third party, whichever occurs first. If the Lessor has sold the Item to a third party at the time that an award of damages under this Section 14(e) shall be awarded or agreed, the fair market value of the Item or the present value of the fair rental value of the Item, as the case may be, shall be conclusively presumed, for the purposes of this Section 14(e), to be equal to the proceeds to such sale. If the Lessor has leased the Item to a third party for a term substantially similar to the unexpired portion of the Term at the time an award of damages under this Section 14(e) shall be awarded or agreed, the fair rental value of such Item shall be conclusively presumed, for the purposes of this Section 14(e), to be equal to the rental reserved under such lease.

No act by the Lessor, other than giving a written notice of termination to the Lessee, shall terminate this Lease. Should the Lessor's actual damages arising from an Event of Default exceed the amounts specified in this Section 14(e), the Lessor shall

be entitled to such actual damages. None of the remedies under this Lease are intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available to the Lessor at law or in equity. Any repossession or subsequent sale or lease by the Lessor of any Item of Equipment shall not bar an action for a deficiency and the bringing of an action or the entry of judgment against the Lessee shall not bar the Lessor's right to repossess any or all Items of Equipment. THE LESSEE WAIVES ANY AND ALL RIGHTS TO NOTICE AND TO A JUDICIAL HEARING WITH RESPECT TO THE REPOSSESSION OF THE EQUIPMENT BY THE LESSOR IN THE EVENT OF A DEFAULT BY THE LESSEE.

15. MISCELLANEOUS.

(a) Lessor's Right to Perform for Lessee. If the Lessee fails to perform or comply with any of its covenants or agreements contained herein, the Lessor may upon written notice to the Lessee perform or comply with such covenant or agreement, and the amount of the reasonable cost and expenses incurred by the Lessor in connection therewith, together with interest on such amount at 12% per annum, or at such lesser rate as may represent the maximum permitted by law, shall be payable by the Lessee to the Lessor on demand.

(b) Assignment by Lessor. The Lessor shall not assign this Lease without the Lessee's prior written consent (which shall not be unreasonably withheld), except in the following circumstances:

(i) The Lessor may, without the Lessee's consent, assign all or part of its rights and delegate all or part of its obligations under this Lease to an "affiliated company" or an "institutional investor" (as these terms are defined below).

(ii) The Lessor may, without the Lessee's consent, assign and create a security interest in all or part of the Equipment and its rights under this Lease.

If the Lessee is given notice of any such assignment, it agrees to acknowledge receipt thereof in writing and to pay the assignee the Rent and other sums so assigned. In the case of an assignment under clause (i) to an institutional investor, the Lessor shall be released from all of the obligations delegated upon their assumption by the assignee. In the case of an assignment under clause (ii), the Lessee waives the right to assert against the assignee any claims, defenses, counterclaims or setoffs that the Lessee may have against the Lessor.

The term "affiliated company" means (a) a company that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the Lessor. The term "institutional investor" means any substantial banking institution or insurance, finance or leasing company (or any wholly-owned

subsidiary of or any corporation controlling any such company) existing under the laws of the United States or any state thereof.

(c) Sublease and Assignment by the Lessee. So long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession and use of the Items by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights regularly operated pursuant to contract and shall be entitled to permit the use of the Items upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and to sublease the Items, but only upon and subject to all the terms and conditions of this Lease, and the Lessee may sublease any or all of the Items at any time and from time to time to any entity having a principle place of business in the United States of America; provided, however, that the Lessee shall not assign, sublease or use or permit the assignment, sublease or use of any Item outside the United States except as provided in Section 7(c); nor shall the Lessee assign or sublease to or permit the sublease or use of the Items by any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may receive and retain compensation for the use of any of the Items from railroads or other entities so using such Items. Any sublease permitted by this paragraph shall be expressly subordinate to the rights and remedies of the Lessor or its assigns under the Lease in respect of the Items covered by such sublease.

(d) Holding Over. If the Lessee shall fail to surrender any Item of Equipment as required by this Lease upon the expiration of the Term, the Lessor may, but shall not be required to, treat this Lease as continuing in full force and effect with respect to such Item. The Lessee shall continue to pay Basic Rent during the holding over at the highest rate provided in this Lease (the Basic Rent for any period less than a full rental period to be the proportionate share of the Basic Rent for the full rental period) and the Stipulated Loss Value of the Item shall be the Stipulated Loss Value as of the last rental payment date of the Term. During any such holding over, the Lessor may without notice terminate this Lease and take possession of the Equipment.

(e) Non-Waiver. Failure by either party to enforce any rights under this Lease shall not be construed as a waiver of such rights nor shall a waiver by either party of a default in one or more instances be construed as constituting a continuing waiver in other instances. No waiver or modification of this Lease shall be valid unless evidenced by a writing signed by the party or parties whose rights or obligations are affected by such waiver or modification.

(f) Notices. All notices required or permitted under this Lease shall be sufficient if delivered personally or mailed by certified or registered mail, postage prepaid, to the party at its address set forth herein, or at such other address as either party may designate in writing from time to time. All notices shall be effective upon receipt.

(g) Further Assurances. The Lessee shall promptly execute and deliver to the Lessor such documents and assurances and take such further action as the Lessor may from time to time reasonably request in order to carry out more effectively the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of the Lessor hereunder, including, without limitation, if requested by the Lessor, at the expense of the Lessee, the preparation, execution and recording or filing of a memorandum of this Lease.

(h) Counterparts. This Lease may be executed in counterparts which taken together shall constitute one agreement.

(i) Survival. The obligations and liabilities of the Lessee arising under this Lease shall survive the expiration or earlier termination of this Lease, until all such obligations have been met and such liabilities have been paid in full.

(j) Severability. Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective. Such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

(k) Governing Law. This Lease shall in all respects be governed by, and construed in accordance with, the laws of the State of California, including all matters of construction, validity and performance; provided that the parties shall be entitled to all rights conferred by 49 USC Section 11303.

(l) Schedule and Exhibits. The Schedule and Exhibits referred to herein are an integral part of this Lease and all references to "this Lease" shall be construed as referring to this Lease, the relevant Schedule and all of the Exhibits.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

LESSEE

VOLUNTEER TRAILBLAZERS, INC.

By   
Its Secretary-Treasurer

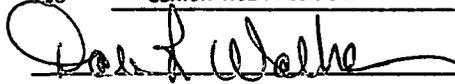
SEAL

Address:

2630 Lebanon Road  
Nashville, Tennessee 37214  
Attention: Robert Hawks,  
Secretary/Treasurer

LESSOR

WELLS FARGO EQUIPMENT  
LEASING CORPORATION

By   
Its SENIOR VICE PRESIDENT  
By   
Its SENIOR VICE PRESIDENT

Address:

425 California Street  
San Francisco, California 94104  
Attention: Contract Administration

APPROVED:

LEGAL DEPT. WELLS FARGO LEASING CORP.

CERTIFICATE OF ACCEPTANCE

No. \_\_\_\_\_

The undersigned hereby certifies that it has inspected, tested, approved and hereby accepts delivery of the following equipment on the terms and conditions set forth herein and in that Lease Agreement (No. \_\_\_\_\_) dated as of \_\_\_\_\_, 1981.

1. Description of the Equipment:
  
2. Location:
3. Delivered Cost: The Delivered Cost of the equipment is \_\_\_\_\_.
4. Basic Rent: As Basic Rent for the equipment described above, the Lessee shall pay to the Lessor \_\_\_\_\_ installments of \$ \_\_\_\_\_ each, payable in \_\_\_\_\_, commencing on \_\_\_\_\_ 19\_\_.

The Lessee warrants that the foregoing equipment is (1) correctly described, (2) in good condition and operating order, (3) fit for its intended use and (4) is new equipment and has not been used in commercial operations prior to the date hereof.

The execution of this Certificate in no way affects any rights of the Lessor or the Lessee against the manufacturer or vendor of the equipment, including rights arising under any warranties, express or implied, on the equipment.

Executed on \_\_\_\_\_, 198\_\_, at \_\_\_\_\_  
in the State of \_\_\_\_\_.

LESSEE

By \_\_\_\_\_

Receipt is hereby acknowledged by  
Lessor this \_\_\_ day of \_\_\_\_\_, 198\_\_.

By \_\_\_\_\_

EXHIBIT A

## STIPULATED LOSS VALUES

Stipulated Loss Value Schedule to Equipment Lease Schedule No. 01 to Lease Agreement dated 6/26/81 between Wells Fargo Equipment Leasing Corporation and Volunteer Trailblazers, Inc.

The Stipulated Loss Value shall be an amount calculated by multiplying the cost of the Equipment by the applicable percentage set forth below.

<u>From the Due Date for Rental Payment Number</u>	<u>Until the Due Date for Rental Payment Number</u>	<u>Stipulated Loss Value Percentage</u>
*	1	109.430
1	2	111.684
2	3	112.667
3	4	113.394
4	5	114.196
5	6	114.720
6	7	108.228
7	8	108.236
8	9	107.979
9	10	107.441
10	11	99.861
11	12	98.786
12	13	97.461
13	14	95.862
14	15	87.237
15	16	85.124
16	17	82.779
17	18	80.167
18	19	77.332
19	20	74.235
20	21	70.926
21	22	67.360
22	23	63.593
23	24	59.577
24	25	55.371
25	26	50.923
26	27	46.313
27	28	41.473
28	29	36.469
29	30	31.461

\*The date the Certificate of Acceptance is executed for the Equipment

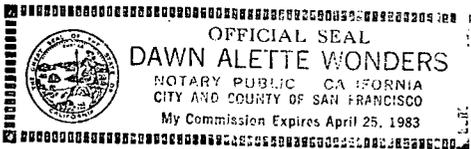
EXHIBIT B

to Equipment Lease Agreement

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

On this 26th of June, 1981, before me personally appeared Bob Hawks to me personally known, who being by me duly sworn, says that he is Secretary-Treasurer of Volunteer Trailblazers, Inc.; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors or its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Dawn Alette Wonders  
Notary Public



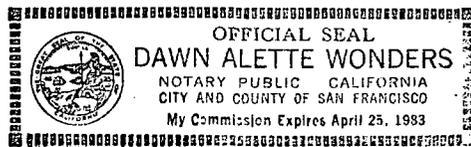
(Notarial Seal)

My Commission Expires 4/25/83

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

On this 26th of June, 1981, before me personally appeared Dale R. Walker and Ronald E. Dean, personally known, who, being by me duly sworn, say that they are Senior Vice Presidents of Wells Fargo Equipment Leasing Corporation; that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Dawn Alette Wonders  
Notary Public



(Notarial Seal)

My Commission Expires 4/25/83

LEASE SCHEDULE NO. 01

to

Lease Agreement (No. 3511912)  
dated as of June 26, 1981 between  
Wells Fargo Equipment Leasing Corporation and  
Volunteer Trailblazers, Inc.

\*\*\*\*\*

I. LEASE TERMS

A. EQUIPMENT

Description of Items of Equipment:

28 - 20,000 Gallon Railroad Tank Cars built by North American Car Corporation  
bearing the following identification numbers:

NATX 73735 - 73758 all inclusive; and NATX 72877 - 72880 all inclusive

Location: Continental United States

Maximum Delivered Cost: Not to exceed \$1,419,600 in the aggregate

Outside Acceptance Date: June 30, 1981

B. TERM

Term: From the Acceptance Date through June 30, 1996

Rental Period: Semi-annual in arrears

Number of Rental Periods in Term: 30

C. BASIC RENT

Rental Payment Dates: January 1; July 1

Rental Payment Factor: 6.4608%

Basic Rent Commencement Date: July 1, 1981

Lease Amortization Rate: 9.88%

## II. RENT

### A. BASIC RENT

On each Rental Payment Date during the Term commencing January 1, 1982, the Lessee shall pay to the Lessor for each Item of Equipment an amount equal to the Delivered Cost thereof multiplied by the Rental Payment Factor (as it may be adjusted as provided below). The last Rental Payment Date shall be July 1, 1996.

### B. ADJUSTMENT FOR CHANGE IN TAX LAW

In the event of one or more Changes in Tax Law (as defined below) that become effective on or before December 31, 1981, the effect of which, taken together, would be to decrease the Earnings or Yield (as defined below) originally anticipated by the Lessor to be realized by it from this lease transaction, the Lessor may notify the Lessee thereof and provide the Lessee with a schedule of Rental Payment Factors and Stipulated Loss Values to apply to all future payments, all revised in a manner that will preserve such originally anticipated Earnings and Yield. In the event of one or more Changes in Tax Law that become effective on or before December 31, 1981, the effect of which, taken together, would be to increase such originally anticipated Earnings and Yield, the Lessor shall notify the Lessee thereof and provide the Lessee with a schedule of Rental Payment Factors and Stipulated Loss Values to apply to all future payments, all revised in a manner that will provide the Lessor with a Return (as defined below) that shall be equal to the average of (a) the Return originally anticipated by the Lessor to be realized by it from this lease transaction and (b) the Return that the Lessor then anticipates realizing from this lease transaction giving effect to the Changes in Tax Law but to no other changes.

If the Lessee shall question the reasonableness of the revised amounts appearing on such schedule, and if the Lessor and the Lessee are thereafter unable to agree on the revised amounts, the matter shall be referred by the Lessor to independent accountants selected by the Lessor and approved by the Lessee (which approval shall not be unreasonably withheld) who shall determine the revised amounts in accordance with this Section II(B), and such determination shall be final and binding on both the Lessor and the Lessee. The revised Rental Payment Factors and Stipulated Loss Values so agreed or determined shall be substituted for the corresponding amounts set forth in this Lease and such substituted amounts shall thereafter be applicable to all Items accepted by the Lessee from and after the date hereof under this Lease.

"Change in Tax Law" means any of the following events: (1) an amendment of the Code, (2) the issuance by the Internal Revenue Service of a final regulation, revenue procedure or published revenue ruling, or a proposed regulation that is generally being complied with by equipment lessors, or (3) a final decision of a court affecting federal tax laws. If a proposed regulation is not ultimately issued as a final regulation in substantially the same form, appropriate adjustments will be made in the Rental

Payment Factors and Stipulated Loss Values. A final decision of a court shall not be deemed to have occurred on or before December 31, 1981 unless such decision was issued by the court on or before that date and subsequently affirmed on any appeal.

"Earnings" means an amount equal to (i) the sum of earned lease income, investment tax credit income and front-end income, less (ii) the sum of applicable fees and expenses, the allocable portion of interest cost, a provision for losses and the allocable portion of the Lessor's current year operating expense, after all applicable taxes. Interest cost shall be determined on the assumptions (x) that all of the Lessor's cash expenditures in connection with this lease transaction will be funded with external debt at an interest rate determined by the Lessor's Investment Committee to be its marginal cost of funds having a weighted average maturity corresponding to the length of time funds are invested in this lease transaction, and (y) that all funds received by the Lessor and remaining after payment of the amounts referred to in clause (ii) above will be used by the Lessor to pay down such external debt.

"Yield" means the Lessor's nominal before-tax rate of return, determined by (i) calculating the rate that discounts the after-tax cash flows from Interim Rent (if any), Basic Rent, tax credit to the Lessor (if any) and the Lessor's booked residual value, net of all of the Lessor's fees and expenses in connection with this lease transaction, back to the Delivered Cost of the Equipment, and (ii) dividing that discount rate by a factor equal to 1 minus the sum of the marginal statutory federal corporate tax rate and the marginal statutory California franchise tax rate.

"Return" means Earnings or Yield, whichever has been subject to the lesser increase.

### **III. TAX MATTERS**

#### **A. CAUSES OF TAX LOSS**

"Cause of Tax Loss" for the purposes of Section 11(c) of this Lease means any one or more of the following causes that shall result in a Tax Loss:

1. Any Item of Equipment not constituting "new section 38 property" within the meaning of Section 48(b) of the Code on its Acceptance Date.
2. Any Item of Equipment having been used on or before its Acceptance Date so as to preclude the "original use" of such Item, within the meaning of Section 48(b)(2) and 167(c)(2) of the Code, from commencing with the Lessor.
3. Any Item of Equipment ceasing at any time during the Term to be "section 38 property" within the meaning of Section 48(a) of the Code.
4. On its Acceptance Date, the basis of any Item of Equipment under Section 46(c)(1)(A) of the Code, for the purpose of computing the investment credit, and Section 167(g) of the Code and the corresponding provision of the applicable state law, for the purpose of computing depreciation deductions, being an amount less than the Delivered Cost thereof.

5. Any act or failure to act, or any misrepresentation or breach of warranty or agreement contained in this Lease or made pursuant to this Lease, in each case on the part of the Lessee. "Cause of Tax Loss" includes any act or forbearance of the Lessee permitted by this Lease or to which the Lessor has consented, but excludes any such act or forbearance expressly required of the Lessee by this Lease.

#### B. INCOME TAX ASSUMPTIONS

1. This Lease is a true lease of each Item of Equipment between the Lessor, as purchaser, owner, lessor and original user, and the Lessee, as lessee.
2. The entire Delivered Cost of the Equipment will be attributable to "new section 38 property" within the meaning of Section 48(b) of the Code.
3. The "original use" of each Item of Equipment will "commence", within the meaning of Section 48(b)(2) and 167(c)(2) of the Code and the corresponding provisions of the applicable state law, with the Lessor on the Acceptance Date thereof.
4. Each Item of Equipment will be "placed in service by" the Lessor, within the meaning of Sections 46 through 50 of the Code, during the half-year in which the Acceptance Date thereof shall occur.
5. The basis for each Item of Equipment on the Acceptance Date thereof under Section 46(c)(1)(A), for purposes of computing the investment credit, and Section 167(g) and the corresponding provisions of the applicable state law, for purposes of computing depreciation deductions, is an amount equal to the Delivered Cost thereof.
6. A credit against the tax imposed by Chapter 1 of the Code is allowable with respect to each Item of Equipment in an amount equal to zero percent of the basis thereof pursuant to Section 38 and 46 through 50 of the Code and the Regulations promulgated thereunder (the "Regulations"), for the calendar year during which the Acceptance Date of such Item of Equipment occurs.
7. Depreciation deductions are allowable with respect to each Item of Equipment pursuant to Section 167 of the Code and the corresponding provisions of the applicable state law, and may be computed initially pursuant to the declining balance method of depreciation, using a rate equal to 200% of the straight line rate, and thereafter the method of depreciation may at any time be changed from such declining balance method to the sum of the years-digits method of depreciation, pursuant to Section 1.167(a)-11(c)(1)(iii) of the Regulations and the corresponding provisions of the applicable state law, without the consent of the applicable taxing authority.
8. The salvage value of each Item of Equipment is an amount equal to 10% of the Delivered Cost thereof after making the reduction permitted by Section 167(f) of the Code and the corresponding provisions of the applicable state law.
9. Each Item of Equipment may be depreciated over an asset depreciation period of 12 years under the asset depreciation range system of Section 167(m) of the Code and Section 1.167(a)-11 of the Regulations and a depreciation period of 12 years for the applicable state income and franchise tax purposes.

10. The Lessor shall be entitled to treat all amounts includable in gross income with respect to this Lease as income or loss from sources within the United States of America for each year that this Lease is in effect.

#### IV. MISCELLANEOUS

##### A. ADDITIONAL CONDITIONS PRECEDENT

1. North American Car Corporation, a Delaware corporation, shall execute and deliver to the Lessor an unconditional guarantee of the Lessee's performance of this Lease in form and substance to the Lessor and such guarantee shall be a legal and valid obligation of North American Car Corporation and is enforceable in accordance with its terms.
2. The Lessor shall have received a Bill of Sale from North American Car Corporation dated the Acceptance Date transferring title to the Equipment to the Lessor and containing such warranties and other provisions as are satisfactory to the Lessor.
3. The Lease shall have been recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no liens or interests in Equipment to be accepted under this Lease and not contemplated by this Lease appear in the records maintained by that Commission pursuant to Section 20c.
4. An opinion of counsel for the Guarantor dated the Acceptance Date and addressed to the Lessor, in form and substance satisfactory to the Lessor, to the effect that the representations and warranties set forth in Sections 7(a)-(d) of the Guaranty and that the conditions set forth in paragraphs 1-3 of this Section IV.A. have been satisfied.
5. A certificate of an officer of the Lessee certifying that (1) no resolution of the Lessee's board of directors is necessary to authorize the execution, delivery and performance of this Lease and the transactions contemplated hereby, and (2) the incumbency and specimen signatures of all officers of the Lessee executing this Lease and the Assignment and all other documents and instruments contemplated hereby.

##### B. SPECIFIC MAINTENANCE AND REPAIR STANDARDS

The Lessee shall maintain the Items of Equipment in accordance with the standards required by the interchange rules of the American Association of Railroads and in the same condition as other similar equipment owned or leased by the Lessee.

C. ADDITIONAL EVENTS OF DEFAULT

1. The guarantee of North American Car Corporation referred to in paragraph 1 of Section IV.A. shall for any reason be terminated or become unenforceable without the Lessor's consent.

D. SUPPLEMENTARY PROVISIONS

1. Identification Marks. The Lessee will cause each Item to be kept numbered with the identifying number set forth in this Schedule or, in the case of any Item not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Item, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Item, in letters not less than one inch in height, the words "WELLS FARGO EQUIPMENT LEASING CORPORATION, OWNER AND LESSOR UNDER A LEASE FILED WITH THE INTERSTATE COMMERCE COMMISSION", or other appropriate words designated by the Lessor, with appropriate changes and additions thereto as from time to time may be required by law in order to protect the Lessor's right and title to such Item and the rights of the Lessor under this Lease. The Lessee will not place in operation or exercise any control or dominion over any Item under this Lease until such words shall have been so marked on both sides thereof and will replace promptly any of such words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Item without the Lessor's prior written consent, which may be conditioned on its receipt of an opinion of counsel in form and substance satisfactory to the Lessor to the effect that the Lessor's ownership of the Equipment will remain of record, and the Lessor shall be entitled to all of the rights of an owner whose ownership interest is duly recorded with the Interstate Commerce Commission pursuant to 49 USC Section 11303.

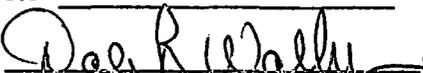
LESSEE

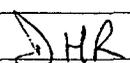
VOLUNTEER TRAILBLAZERS, INC.

By   
Its Secretary-Treasurer

LESSOR

WELLS FARGO EQUIPMENT  
LEASING CORPORATION

By   
Its SENIOR VICE PRESIDENT  
By   
Its SENIOR VICE PRESIDENT

APPROVED:

LEGAL DEPT. WELLS FARGO LEASING CORP.