



TRANSPORTATION

EQUIPMENT GROUP

RECORDATION NO. 1 5193 Filed & Recorded

MAR 27 1987 2-55 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 1 5193 Filed & Recorded

MAR 27 1987 2-55 PM Law Department
100 North Charles Street
Baltimore, MD 21201

INTERSTATE COMMERCE COMMISSION

7-086A073

Ms. Noretta R. McGee, Secretary
Interstate Commerce Commission
12th Street & Constitution Avenue, N.W.
Washington, DC 20423

No.

MAR 27 1987

Date

Fee \$

20.00

Dear Ms. McGee:

Re: Documents for Recordation
49 USC § 11303

ICC Washington, D. C.

I have enclosed an original and copies of the documents described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

(A) The first document, identified as "Memorandum of Lease of Railroad Equipment" dated February 16, 1987, is a memorandum of a lease, a copy of which is attached, and is a primary document.

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

Lessor: HM Joint Venture, a Kentucky joint venture
c/o Helms Equipment Leasing Corporation
One Embarcadero Center
San Francisco, CA 94111

Lessee: CSX Transportation, Inc.
Attn: Treasury Department
100 North Charles Street
Baltimore, MD 21201

A description of the equipment covered by the document follows:

Three hundred, 100-ton open top hopper cars, all having AAR mechanical designation H450 and having reporting marks C&O 10000-10330. (Thirty of the foregoing numbers will be held in reserve.)

(B) The second document, identified as "Memorandum of Non-Recourse Note and Security Agreement" dated March 11, 1987, is a memorandum of a note/agreement, a copy of which is attached and a Consent and Agreement, all of which is considered to be a secondary document regarding the identical equipment. We request that this secondary document be cross-indexed with the above-described primary document.

MAR 27 2 48 PM '87
MOTOR OPERATING UNIT
ICC OFFICE OF THE SECRETARY

Ms. Noretta R. McGee
March 26, 1987
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The names and addresses of the parties to the documents are as follows:

Debtor: HM Joint Venture, A Kentucky joint venture
c/o Helm Equipment Leasing Corporation
One Embarcadero Center
San Francisco, CA 94111

Secured Party: First National Bank of Louisville
P.O. Box 36000
Louisville, KY 40233

Acknowledging
Party: CSX Transportation, Inc.
Attn: Treasury Department
100 North Charles Street
Baltimore, MD 21201

A description of the equipment covered by the document follows:

Three hundred, 100-ton open top hopper cars, all having AAR mechanical designation H450 and having reporting marks C&O 10000-10330. (Thirty of the foregoing numbers will be held in reserve.)

An original and seven copies of the primary document and an original and six copies of the secondary document are enclosed. After filing, please return the originals and all extra copies of the documents to me at the following address:

John W. Humes, Jr.
Senior General Attorney
CSX Transportation
100 North Charles Street
Baltimore, MD 21201

A check in the amount of \$20.00 for the total filing fee of both documents is enclosed.

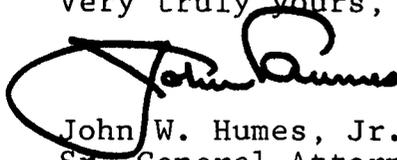
A short summary of each document follows:

A. Primary Document: A memorandum of a lease between HM Joint Venture, c/o Helm Equipment Leasing Company, One Embarcadero Center, San Francisco, California, as Lessor and CSX Transportation, Inc., 100 North Charles Street, Baltimore, MD 21201, as Lessee, covering three hundred 100-ton open top hopper cars.

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B. Secondary Document: A note/agreement between HM Joint Venture, c/o Helm Equipment Leasing Company, One Embarcadero Center, San Francisco, CA 94111, Debtor, First National Bank of Louisville, P.O. Box 36000, Louisville, KY 40233, as Secured Party; and CSX Transportation, Inc., Attn: Finance Department, 100 North Charles Street, Baltimore, MD 21201, as Acknowledging Party; covering three hundred 100-ton open top hopper cars.

Very truly yours,

A handwritten signature in black ink, appearing to read "John W. Humes, Jr.", written over a printed name and title.

John W. Humes, Jr.
Sr. General Attorney

JWH/plb

Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

4/1/87

OFFICE OF THE SECRETARY

John W. Humes, Jr.
Senior General Attorney
CSX Transportation
100 North Charles St.
Baltimore, Maryland 21201

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 3/27/87 at 2:55pm, and assigned re-
recording number(s) 15193 & 15193-A

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 1 5193 Filed & Recorded

MEMORANDUM OF
LEASE OF RAILROAD EQUIPMENT

MAR 27 1987 2-55 P.M.

INTERSTATE COMMERCE COMMISSION

THIS MEMORANDUM OF LEASE OF RAILROAD EQUIPMENT is intended to evidence the Lease of Railroad Equipment, dated as of February 16, 1987 (the "Lease") between HM Joint Venture, a Kentucky joint venture (the "Lessor") and CSX Transportation, Inc., a Virginia corporation (the "Lessee"), for the purposes of satisfying the requirements of recordation with the Interstate Commerce Commission under Section 49 U.S.C. 11303. The Lessor is the owner of three hundred (300) 100-ton open top coal hopper cars more fully described in Annex A hereto (the "Cars"). The Lessee leased from the Lessor all the Cars at the rentals and upon the terms and conditions provided in the Lease, attached hereto as Annex B.

IN WITNESS WHEREOF, the Lessor and the Lessee, each pursuant to due authority, have executed this Memorandum of Lease as of this 16th day of February, 1987.

"Lessor"

HM JOINT VENTURE

BY: HELM EQUIPMENT LEASING
CORPORATION

Attest:

[Signature]

Title: SECRETARY

By: *[Signature]*

Title: Executive Vice President

"Lessee"

CSX TRANSPORTATION, INC.

Attest:

[Signature]

Title: Corporate Secretary

By: *[Signature]*

Title: Vice President-Equipment Group

ANNEX A
to
Memorandum of
Lease of Railroad Equipment
Dated as of February 16, 1987

Equipment Description

Three hundred (300) 100-ton
open top coal hopper cars

Lessee's Numbers

C&O 10000-10330

LEASE OF RAILROAD EQUIPMENT

LEASE OF RAILROAD EQUIPMENT, dated as of February 16, 1987, between HM JOINT VENTURE, a joint venture organized under the laws of the State of Kentucky (hereinafter called the "Lessor"), and CSX TRANSPORTATION, INC., a Virginia corporation (hereinafter called the "Lessee"). The term "Affiliate" as used hereinafter means any parent or subsidiary of the Lessee or any subsidiary of the parent of the Lessee, as presently constituted.

WHEREAS, the Lessor owns or will acquire the Cars more fully described in Schedule A referred to hereinafter (hereinafter the "Cars");

WHEREAS, the Lessor is financing its acquisition of the Cars with First National Bank of Louisville (the "Lender");

WHEREAS, the promissory note issued by the Lessor to Lender in connection with the financing of its acquisition of the Cars evidencing the amount of such financing is secured by the Cars and this Lease pursuant to a Security Agreement and an assignment of the Lease (the "Lease Assignment") (the Security Agreement and the Lease Assignment being herein called, collectively, the "Security Documents"), Lessee having consented and agreed to such assignment pursuant to a certain Consent and Agreement (the "Consent and Agreement"); and

WHEREAS, the Lessee desires to lease from the Lessor all the Cars at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Cars to the Lessee upon the following terms and conditions:

1. Definitions. In this Agreement, unless the context otherwise requires:

(a) "AAR" means the Association of American Railroads or any successor organization having similar functions with respect to the establishment of maintenance standards for railroad cars.

(b) "Interchange Rules" means the Field Manual of the Interchange Rules adopted by the AAR or any successor publication issued by the AAR to replace such Interchange Rules, in effect from time to time during the term of this Agreement.

(c) "Cars" means, collectively, the 100-ton open top coal hopper cars identified in Schedule A, attached hereto and made a part hereof, as the same may be amended, modified or supplemented in writing from time to time hereunder.

(d) "Effective Date" means with respect to the Cars the first day of the month following delivery and acceptance of the 300th Car hereunder, or if delivery and acceptance of the 300th Car occurs on the first day of any month, then that day.

(e) "Acceptance Date" means with respect to each Car the date of delivery and acceptance of that Car.

(f) "Rent Payment Dates" means the Effective Date and each anniversary thereof for the term of the Lease and any renewals thereof and the date which is 6 months after the Effective Date and each anniversary thereof for the term of the Lease and any renewals thereof.

(g) "FRA" means the Federal Railway Administration or any successor having similar jurisdiction.

(h) "Good Operating Condition" means that the Cars will be (i) operable in conformity with the Interchange Rules, the requirements of any other governmental or non-governmental agency having jurisdiction over the operation, safe condition, maintenance or use of the Cars and the manufacturer's or Lessee's specifications for the Cars, (ii) acceptable, for the use in hauling coal, coke, iron ore, stones or aggregates, (iii) acceptable for interchange use, and (iv) legibly marked with those marks reasonably necessary for purposes of identification to meet AAR or other requirements.

2. Delivery and Acceptance of Cars. Lessor agrees to deliver 300 Cars in Good Operating Condition. The Lessee hereby agrees to accept, as evidenced by the execution of a joint inspection certificate in the form of Exhibit C attached hereto, all Cars delivered to it which are in Good Operating Condition. Cars shall be delivered to Lessee at such location as may be agreed to by the parties hereto in Good Operating Condition and shall be promptly accepted or rejected as shown on the joint inspection certificate, with reasons for rejection in reasonable detail. At least 100 Cars in Good Operating Condition shall be delivered by Lessor by March 1, 1987 with the balance to be delivered by April 1, 1987. From acceptance, each Car shall be subject thereafter to all terms and conditions of this Lease.

The Lessor warrants that it has good title to each Car free and clear of any liens and encumbrances, except that of the Lender under the Security Documents, and has authority to enter into and perform this Lease.

3. Car Hire Earnings. Upon acceptance of the Cars as set forth in Section 2 hereof, with reporting marks on each Car as set forth in Section 6 and Schedule A hereto, Lessee shall enjoy all car hire earning (per diem and mileage) thereafter until the expiration or sooner termination of this Lease. Lessor shall not be responsible for collection of any car hire earnings and such responsibility shall lie solely with Lessee.

4. Rentals. The Lessee agrees to pay the Lessor rental for each Car subject to this Lease in \star installments, payable in \star on the Rent Payment Dates, beginning on the Effective Date. Each \star payment shall be in the amount of \$ \star each per Car.

In addition, the Lessee agrees to pay the Lessor interim rental as follows:

On the Effective Date the daily rate of \$ \star per Car for the period from the Acceptance Date for each Car through the day preceding the Effective Date.

In the event the Lessee shall be in default in the payment of any sum of money to be paid under this Lease, whether rental or otherwise, the Lessee shall pay the Lessor, as additional rental, to the extent permitted by applicable law, interest on such unpaid sum from its due date to date of payment by the Lessee at a rate equal to \star % per \star .

This Lease is a net lease and Lessee acknowledges and agrees that Lessee's obligations hereunder, including without limitation, its obligations to pay rent hereunder, shall be absolute and unconditional under any and all circumstances and shall be paid without notice or demand and without abatement, reduction, diminution, set-off, defense, counterclaim or recoupment whatsoever, including, but not limited to, any abatement, reduction, diminution, set-off, defense counterclaim or recoupment whatsoever due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease, against any vendor or manufacturer of the Cars or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the obligations of the Lessee be otherwise affected, by reason of any defect in condition, design, operation, fitness for use or damage to or loss of possession or loss of use of or destruction of all or any of the Cars from whatsoever cause, the prohibition or interruption of or other restriction against Lessee's use, operation or possession of all or any of the Cars for any reason

\star The figures and terms are set forth in the original lease

whatsoever, the interference with such use, operation or possession by any private person or entity, or by reason of failure by Lessor to perform any of its obligations herein contained, if any, other than Lessor's warranty of quiet enjoyment, the invalidity or unenforceability or lack of due authorization of this Lease, or for any other cause whether similar or dissimilar to the foregoing, and present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other payments payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives 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 the lease of any Cars except in accordance with the express terms hereof.

Lessor represents and warrants that Lessee shall have a right to quiet enjoyment of the Cars. It is understood and agreed that Lessee's obligation to pay rent is unconditional so long as Lessee's use and possession of the Cars is not disturbed by Lessor or its successors or assigns (other than pursuant to the exercise of Lessor's rights under Section 13 hereof). Notwithstanding anything to the contrary herein set forth, Lessor and Lessee agree that if Lessee fails to pay rent for any reason other than the disturbance by Lessor of Lessee's right to quiet enjoyment set forth in this Section 4, Lessor may exercise any of its remedies under Section 13 hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever except as otherwise provided in Section 8(b). The rentals and other sums payable by the Lessee hereunder shall be paid without notice, demand, counterclaim, or defense by reason of any circumstance or occurrence whatsoever.

Notwithstanding the provisions of the immediately preceding paragraph, nothing herein shall eliminate Lessor's responsibility hereunder, if any, to the Lessee for monetary damages in the event that it shall fail to perform any of its obligations under this Lease, subject, however, to all prior rights and remedies of the Lender and its assigns under the Lease and the Security Documents.

4. Term of Lease. The term of this Lease with respect to the Cars shall begin on the Effective Date and, unless sooner terminated in accordance with the provisions of the Lease, shall end sixty (60) months from the Effective Date.

The obligations of the Lessee hereunder (including, but not limited to, the obligations of the Lessee under Sections 7, 10 and 13 hereof) shall survive the expiration or sooner termination of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Cars are subject to the rights of the Lender under the Security Documents. If any event of default should occur under the Security Documents, the Lender may terminate this Lease (or rescind its termination), all as provided therein; provided, however, that, so long as (i) no Event of Default exists hereunder, (ii) the Lessee is complying with the provisions of the Consent and Agreement and (iii) the Lender is entitled to apply the "income and proceeds from the Equipment" (as defined in the Security Agreement) in accordance with the Security Documents, this Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under Section 16 hereof. Lessor covenants that Lessee shall lawfully, peaceably and quietly hold, possess and enjoy the Cars covered by this Lease, without any hindrance, dispossession or interference by Lessor or any one lawfully claiming by, through or under Lessor, except pursuant to the provisions of this Lease.

6. Identification Marks. The Lessee will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Car: 1) the identifying Marks of Lessee and/or its Affiliates and numbers as set forth in Schedule A attached hereto, and 2) in letters not less than one inch in height, the words "Ownership subject to a security agreement filed with the Interstate Commerce Commission" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor and the Lender and the rights of the Lessor and the Lender under the Lease. The Lessee will not place any such Car in operation or exercise any control or dominion over the same until such names and word or words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not permit the identifying number of any Car to be changed except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed, recorded or deposited in all public offices where this Lease will have been filed, recorded and deposited.

Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Cars as a designation that might be interpreted as a claim of ownership.

7. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state or federal taxes (other than the federal income tax payable by the Lessor in consequence of the receipt of payments provided herein and other than state or city income taxes or franchise taxes measured by gross or net income based on such receipts or based on capital employed by Lessor, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments or licenses (and any charges, fines or penalties in connection with or measured by, this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the terms of the Security Documents), all of which taxes, assessments, licenses, charges, fines and penalties the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all taxes, assessments or licenses (and any charges, fines or penalties in connection therewith) which may be imposed upon any Car or for the use or operation thereof or upon the Lessee's earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Car free and clear of all taxes and assessments which might in any way affect the title of the Lessor or result in a lien upon any such Car (hereinafter called Impositions); provided, however, that the Lessee shall not be obligated to reimburse the Lessor for any Impositions so paid unless the Lessor shall have been legally liable with respect thereto, or unless the Lessee shall have approved the payment thereof. Provided, however, that the Lessee shall be under no obligation to pay any Imposition of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the opinion of Lessor, adversely affect the property or rights of the Lessor in or to the Cars or otherwise under this Lease. Lessor recognizes all statutory exemptions from sales or use taxes available to Lessee, as well as Direct Pay Authorizations issued to Lessee.

Lessee agrees to and does hereby indemnify Lender with respect to Impositions to the same extent as Lessor is indemnified under this Section 7. Accordingly, the term "Lessor", as used in this Section 7, shall be read as "Lessor and/or Lender" as is appropriate in the context in which it is used.

In the event any reports with respect to Impositions are required to be made on the basis of individual Cars the Lessee will either make such reports in such manner as to show the interest of the Lessor in such Cars or will notify the Lessor of

such requirement and will make such reports in such manner as shall be satisfactory to the Lessor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any Impositions, pursuant to this Section 7, such liability shall continue, notwithstanding the expiration or sooner termination of the term of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

The amount which the Lessee shall be required to pay with respect to any Imposition which is subject to indemnification under this Section 7 shall be an amount sufficient to restore the Lessor to the same net after-tax rate of return and after-tax cash position, after considering the effect of such payment on its United States federal income taxes and state and city income taxes or franchise taxes based on net income, that the Lessor would have been in had such Imposition not been imposed.

8. Loss, Damage or Destruction.

(a) Risk of Loss, Damage or Destruction. As between Lessee and Lessor and any Assignee of Lessor, Lessee hereby assumes all risk of loss, damage, theft, taking, destruction, confiscation, requisition or commandeering, partial or complete, of or to each Car, however caused or occasioned (provided that Lessor shall be responsible for any and all damage and liabilities caused by Lessor), such risk to be borne by Lessee with respect to each Car from its Acceptance Date, and continuing until such Car has been returned to Lessor in accordance with the provisions of Section 12 hereof. Lessee agrees that, except as otherwise provided herein, no occurrence specified in the preceding sentence shall impair, in whole or in part, any obligation of Lessee under this Lease, including, without limitation, the obligation to pay rent.

(b) Casualty Occurrence. In the event that any Car shall be or become worn out, lost, stolen, destroyed or irreparably damaged or obsolete or economically unserviceable for use from any cause whatsoever, while on Lessee's or its Affiliates lines (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall on the next succeeding Rental Payment Date after it shall have determined that such Car has suffered a Casualty Occurrence, fully inform the Lessor in regard thereto. On such date the Lessee shall pay to the Lessor an amount equal to the settlement found in the Casualty Schedule attached as Schedule B less rental paid in advance but not earned as a result of such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of a Car, the rental for such Car shall cease to accrue as of the date of such Casualty Occurrence, the term of this Lease as to such Car shall terminate and the Lessee shall be

entitled to ownership and possession of any such Car or the remains thereof.

Lessor shall notify Lessee if a Car suffers a Casualty Occurrence on a line other than that of Lessee or its Affiliates and rental shall cease as of the date of such notification. Lessee shall have the obligation to collect all monies due and owing pursuant to Rule 107 of the AAR Field Manual from the line upon which the Casualty Occurrence took place and shall turn all such monies collected over to Lessor without any set-offs or deductions. In the event Lessee is unable to collect all or a portion of monies due and owing as described above after making a good faith effort to collect, Lessee shall remit of the amount due and owing pursuant to Rule 107 of the AAR Field Manual to Lessor.

Except as hereinabove in this Section 8 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Car after delivery to and acceptance thereof by the Lessee hereunder.

9. Report and Inspection. On or before April 1 in each year, commencing with the Calendar year 1988, the Lessee will furnish to the Lessor and the Lender (a) an accurate statement setting forth as of the preceding December 31 the amount, description and numbers of all Cars then leased hereunder and covered by the Security Documents, the amount, description and numbers of all Cars that have suffered a Casualty Occurrence during the preceding calendar year and (b) such other information regarding the condition and state of repair of the Cars as the Lessor may reasonably request. The Lessor and the Lender, at their sole cost and expense, shall have the right by their agents, to inspect the Cars and the Lessee's records with respect thereto at such reasonable times as the Lessor or the Lender may request during the continuance of this Lease.

10. Compliance with Laws and Rules; Maintenance; Insurance and Indemnification.

(a) Warranties. The Lessor makes no warranty or representation, either expressed or implied, as to the design, compliance with specifications, or as to the quality of the material, equipment or workmanship in, the Cars delivered to the Lessee hereunder, and THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE CARS FOR ANY PARTICULAR PURPOSE, OR AS TO CONDITION, COMPLIANCE WITH SPECIFICATIONS, QUALITY OR (EXCEPT AS SET FORTH IN SECTION 2 HEREOF) AS TO TITLE TO THE CARS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY CAR, OR COMPONENT THEREOF, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the

Lessor and the Lessee, are to be borne by the Lessee. The Lessor does, however, warrant that the Cars will be acceptable at the time of acceptance for use in hauling coal, coke, iron ore, stones or aggregates.

(b) Compliance with Laws and Rules. The Lessee agrees, for the benefit of the Lessor and Lender, to comply in all respects with all laws of the jurisdictions in which operations involving any Car subject to this Lease may extend, with the interchange rules of the AAR and the FRA and with all rules of the ICC and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over any such Car, to the extent such laws and rules affect the operations or use of such Car; and in the event such laws or rules require the alteration of any such Car, the Lessee will conform therewith, and will maintain the same in proper condition or operation under such laws and rules; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Lessor, adversely affect the property or rights of the Lessor hereunder.

(c) Maintenance and Repair of Cars. Lessee agrees, at its own cost and expense, to keep, repair, maintain and preserve the Cars in conformity with all applicable laws and regulations including the AAR Code of Interchange Rules and FRA Railroad Freight Car Safety Standards, 49 CFR Part 215, as amended. Lessee shall be entitled to perform such maintenance and repairs in accordance with its own reasonable business practices and schedules, provided however, that the Cars shall be in Good Operating Condition upon their return to Lessor pursuant to Sections 12 and 14 hereof. If repairs or alterations to the Cars not presently contemplated by the parties are required by any governmental or non-governmental agency having jurisdiction over the operation, safe condition, maintenance or use of the Cars, Lessee shall make such repairs or alterations. However, if the costs thereof exceed $\star\%$ of the then applicable Casualty Value of the affected Cars pursuant to Schedule B hereto (the "Limit"), Lessee shall receive a credit equal to the cost of said repairs exceeding the Limit (the "Credit") and Lessee may elect to apply said Credit in one of the three following ways:

1. Lessee may apply the Credit toward the purchase price of the Cars if Lessee elects to exercise the purchase option hereunder pursuant to Section 16(b); or
2. Lessee may apply the Credit toward rental payments for the Cars if Lessee elects to exercise the renewal option hereunder pursuant to Section 16(a); or

3. Lessee may apply the Credit toward free rent for the Cars upon termination of this Lease or any renewal hereof for a period which, at a daily rental rate equivalent to the average daily rental rate of the lease or renewal term immediately preceeding the commencement of said free rent, would permit Lessee to recover the cost of the repairs exceeding the Limit.

Lessee shall give Lessor 30 days written notice of its election of one of the three preceeding options.

Lessee hereby waives any right now and hereafter conferred by law to make repairs on the Cars at the expense of Lessor. Lessor hereby assigns to Lessee whatever claims and rights the Lessor may have against the manufacturer under the provisions of the manufacturer's warranty agreements, and Lessor agrees to execute and deliver such documents as may be necessary to enable Lessee to obtain customary warranty service and servicing obligations furnished by the manufacturer.

(d) Replacement of Parts; Alterations; Modifications and Additions. At all times during the continuance of this Lease subject to Subsection 10(c) hereof, Lessee shall be responsible for all repairs, maintenance, modifications, additions or replacements required to keep the Cars in Good Operating Condition. To the extent any addition, repair or accession is not readily removable without causing material damage to the related Car, or is in replacement of or substitution of any part, all such repair work shall constitute accessions to the Cars and title thereto shall vest in Lessor. Lessee shall be permitted at its own expense to make alterations, improvements or additions to the Equipment which are readily removable without causing material damage to the Cars and do not adversely affect any manufacturer's warranties with respect to such Cars. In the event that such alterations, improvements and additions are readily removable without causing material damage to the Car, notwithstanding anything in this Lease, the same shall become the property of the Lessee upon termination of the Lease. Lessee agrees that, within ninety (90) days prior to the expiration of the Lease with respect to any Car, Lessee will give written notice thereof to Lessor describing, in reasonable detail, such readily removable alterations, improvements and additions and specifying the cost thereof with respect to each Car and the date or dates when made.

In the case of any improvement which is not readily removable without causing material damage to the Car (1) the value of such Car shall not be reduced thereby, (2) such improvement will not cause such Car to become limited use property within the meaning of Revenue Procedure 76-30, or materially alter or reduce its general usefulness, and (3) such

improvement must satisfy the conditions of Section 4(4).03(B) of Revenue Procedure 79-48, and, in the case of any readily removable improvement, such improvement must be readily removable without causing material damage to the Car or impairing the value, utility or condition of such Car which such Car would have had if such improvement had not been so affixed or installed. Except as required or permitted by the provisions of this Section 10, Lessee shall not modify a Car without the prior written authority and approval of Lessor.

In the case of damage caused to any of the Cars which is the responsibility under AAR Rules of a railroad other than Lessee or its Affiliates and not repaired by such railroad, Lessee will perform the necessary repairs and will prepare and submit such documents as are necessary to recover the cost of such repair in accordance with AAR Rules and will perform all necessary administrative tasks in connection with such counter-billing. Lessee will be solely entitled to any sum so recovered. Lessor is not responsible for the payment of the foregoing repairs.

Neither party to this Agreement will alter materially the physical structure or allow any third party to alter materially the physical structure of any of the Cars without the other party's written consent.

(e) Insurance. Lessee hereby acknowledges that it has elected to be self-insured to fifty million dollars (\$50,000,000) for public liability and five million dollars (\$5,000,000) for property damage at the present time. These amounts may fluctuate during the term of the Lease but Lessee agrees that it will maintain during the term of this Lease a net worth sufficient to meet its self insurance obligations. Lessee agrees to give immediate notice to Lessor of any material adverse change in its financial condition that would preclude meeting its financial obligation under this Lease during the term of this Lease.

(f) Indemnity. The Lessee agrees to indemnify and save harmless the Lessor and Lender against any charges or claim made against the Lessor, and against any expense, loss or liability (including but not limited to counsel fees and expenses, penalties and interest) which the Lessor may incur in any manner (unless resulting from the Lessor's sole or to the extent of Lessor's joint negligence or as otherwise provided herein) by reason of entering into or the performance of this Lease or the ownership of, or which may arise in any manner out of or as a result of the use, operation, condition, delivery, rejection, storage or return of, any Car until such Car is returned to the Lessor in accordance with the terms of the Lease, and to indemnify and save harmless the Lessor, except as provided in this paragraph, and Lender against any charge, claim, expense, loss or liability on the account of any accident in connection with the operation, use, condition, possession or storage of such

Car resulting in damage to property or injury or death to any person. The indemnities contained in this paragraph shall survive payment or performance of all other obligations under this Lease or the termination of this Lease.

(g) Reports. The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all mandatory reports of which the Lessee has or reasonably should have actual knowledge, except income tax reports, to be filed by the Lessor, with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Cars or the leasing of the Cars to the Lessee. The Lessor shall notify the Lessee of any such reports of which the Lessor has actual knowledge.

(h) Disputes. If there is any dispute as to who is responsible for repairs to any Car, the completion of such repairs by a party shall not constitute an admission of responsibility but instead such party may still assert its claims that the other party was responsible.

11. Liens. Lessee will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Cars, any Car or any part thereof, Lessor's title thereto, or any interest therein, except (i) any lien granted or placed thereon by Lessor pursuant to an Assignment for security referred to in Section 15 hereof, (ii) any lien resulting from an independent act of or claim against Lessor which does not result from, arise out of, or relate to the manufacture, acquisition, ownership or leasing of the Cars or this Lease or any Lease Supplement or any Event of Default, (iii) liens for taxes either not yet delinquent or being contested by Lessee in good faith by appropriate proceedings and where, in Lessor's (and in any assignee of Lessor's) opinion, there is no danger of the sale, forfeiture or loss of the Cars or any part or item thereof, and (iv) materialmen's, mechanics', workmen's, repairmen's, employees' storage or other like liens arising in the ordinary course of business, which are not delinquent or are being contested by Lessee in good faith by appropriate proceedings and where, in Lessor's (and in any assignee of Lessor's) opinion, there is no danger of the sale, forfeiture or loss of the Cars, or any part thereof. Lessee, at its own expense, will promptly pay, satisfy and otherwise take such actions as may be necessary to keep the Cars free and clear of, and to duly discharge or eliminate or bond in a manner satisfactory to Lessor and any assignee of Lessor, any such lien not excepted above if the same shall arise at any time. Lessee will notify Lessor and any assignee of Lessor in writing promptly upon becoming aware of any tax or other lien (other than any lien excepted above) that shall attach to the Cars or any Car, and of the full particulars thereof.

12. Return of the Cars Upon Expiration of Term. As soon as practicable on or after the expiration of the term of this Lease with respect to the Cars, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of the Cars to the Lessor upon such storage tracks of the Lessee or its Affiliates as the Lessor may reasonably designate or in the absence of designation by the Lessor, then at no more than three locations as the Lessee may reasonably choose. The condition of the Cars upon such return shall be as required pursuant to Paragraph 10 hereof excepting the passage of time and reasonable wear and tear, which does not include damage caused to the Cars by any corrosive or abrasive substance except coal, coke, iron ore or aggregates loaded therein or used in connection therewith, damage caused to the Cars by excessive or unbalanced loading, excessive, unusual or avoidable damage caused to the Cars by open flames, vibrations, sledges or other similar devices during loading or unloading operations and damage caused to the Cars resulting from damaged safety appliances.

When the Lessee has assembled all Cars at the locations selected by the Lessor or the Lessee as hereinbefore provided, the Lessee shall notify the Lessor in writing of the availability of the Cars at the designated storage locations for inspection to determine whether the Cars are in Good Operating Condition. The Lessee shall permit the Lessor to store the Cars on such tracks free of charge for a period not exceeding ninety days, said ninety-day period to begin upon Lessee's notification as hereinbefore provided and shall transport the same to a mutually agreed interchange point. The movement and storage of the Cars prior to Lessee's notification and within said ninety day period shall be at the expense and risk of the Lessee, provided, however, that movement and storage of any Car after such ninety-day period shall continue to be at the risk of Lessee for any Cars which are not in Good Operating Condition.

Unless otherwise agreed, if no movement instructions are given by the Lessor within such ninety-day period, the movement and storage of any Cars which are in Good Operating Condition after such ninety-day period shall be at the expense and risk of the Lessor. If the Lessor instructs the Lessee to store any Cars which are in Good Operating Condition for a period beyond ninety days after the expiration of this Lease with respect to such Car, such additional storage shall be at the expense and risk of the Lessor.

Any Cars which are not in Good Operating Condition after said ninety-day period shall be brought up to Good Operating Condition. When such Cars are in Good Operating Condition, Lessee shall notify Lessor in writing of the availability of such Cars at their designated storage location for inspection by Lessor to determine whether the Cars are in Good Operating

Condition. Lessor shall have one week from receipt of such notification to inspect such Cars and provide movement instructions.

Storage charges of \$ ★ per Car in Good Operating Condition per day shall be paid by the Lessor to the Lessee for all Cars in Good Operating Condition stored on Lessee's tracks at Lessor's expense or stored due to Lessor not requesting that movement to an interchange point be commenced prior to the expiration of the ninety-day period. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Car, to inspect the same at such reasonable time or times as the Lessee shall agree to.

The assembling, delivery, storage and transporting of the Cars as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Cars.

13. Default. If, during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

(a) default shall be made in the payment of any part of the rental provided in Section 4 hereof and such default shall continue for ten days after written notice is sent to Lessee;

(b) the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Cars, or any thereof;

(c) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for thirty days after written notice from the Lessor to the Lessee specifying the default and demanding the same to be remedied;

(d) any proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder), and all the obligations of the Lessee under this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that the

status of such shall be the same as expense of receivers, within thirty days after such appointment, if any, or sixty days after such proceedings shall have been commenced, whichever shall be earlier;

(e) any material representation made by the Lessee herein or in any certificate or other instrument delivered under or pursuant to any provision hereof shall prove to have been false or incorrect in any material respect on the date as of which made;

then, in any such case, the Lessor, at its option may:

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

(ii) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Cars shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon, the Lessor may in a reasonable manner and without damage to the property of the Lessee or injury to any person by its agents, enter upon the premises of the Lessee or other premises where any of the Cars may be and take possession of all or any of such Cars and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Cars 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 the total number of days in such full rental period) and also to recover forthwith from the Lessee (a) as representing actual loss incurred by the Lessor, damages for loss of the bargain and not as a penalty, a sum, with respect to each Car which represents the excess of the then present value of all rentals for such Car which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Car over the then present value of the then fair rental value of such Car for such period computed by discounting to the date of such termination rentals which the Lessor reasonably estimates to be obtainable

for the use of the Car during such period, such present value to be computed in each case on a basis of a % per annum discount, compounded annual from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (b) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, including, without limitation, expenses of resale or re-leasing (including incidental transportation costs incurred by Lessor).

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

14. Return of Cars Upon Default. If this Lease shall terminate pursuant to Section 13 hereof, the Lessee shall forthwith deliver possession of the Cars to the Lessor. The condition of the Cars upon such return shall be as required pursuant to Section 10 hereof. For the purposes of delivering possession of any Car or Cars to the Lessor as above required, the Lessee shall at its own cost, expense, and risk:

(a) forthwith place such Cars upon such storage tracks of the Lessee or its Affiliates as the Lessor reasonably may designate or, in the absence of such designation, as the Lessee may select,

(b) permit the Lessor to store such Cars on such tracks for a period of not exceeding *A* at the risk of the Lessee, and

(c) transport the same, at any time within such *A* period, to any place on the lines of railroad operated by the Lessee or any of its Affiliates or to any connecting carrier for shipment, all as reasonably directed by the Lessor. The

assembling, delivery, storage and transporting of the Cars as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Cars.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 14, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Car to the Lessor, to demand and take possession of such Car in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Car. In connection therewith Lessee will supply Lessor with such documents as Lessor may reasonably request.

15. Assignment; Possession and Use. Conditioned upon the Lessee performing all of the terms, covenants, and conditions of this Lease, the Lessor, its successors and assigns will not disturb the Lessee's peaceable and quiet possession and use of the Cars during the term of this Lease, provided, that no Event of Default has occurred and is continuing.

This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including but not limited to the rights under Sections 7, 10 and 13) shall inure to the benefit of the Lessor's assigns (including the Lender). Whenever the term Lessor is used in this Lease it shall apply and refer to each assignee of the Lessor.

So long as the Lessee shall not be in default under this Lease, the Lessee may without any prior consent of the Lessor sublease any one or more of the Cars or assign this Lease to any one or more of the Lessee's Affiliates, or with the prior written consent of the Lessor and the Lender sublease the Cars to third parties; provided, that (i) such sublease or assignment shall provide that the subject Cars shall be operated and maintained in accordance with the terms hereof; (ii) the Lessee shall provide the Lessor and the Lender with 10 days advance notice of any such sublease or assignment and a copy of such sublease or assignment; (iii) such sublease shall be subject and subordinate to the terms and provisions of this Lease and the Security Documents and the interests of the Lessor and the Lender; and (iv) no such sublease or assignment shall relieve Lessee of its obligation hereunder, which shall remain those of a principal and not a surety.

The Lessee represents and warrants that: (i) Lessee (or any assignee or sublessee) will not at any time during the term of this Lease use or fail to use any Car, in such a way as to disqualify it as "Section 38 property" within the meaning of Section 48 of the Internal Revenue Code; (ii) Lessee (or any assignee or sublessee) will at all times during the term of this Lease use each Car in such a way that for federal income tax purposes, all amounts includable in the gross income of Lessor with respect to each Car and all deductions allowable to Lessor with respect to each Car will be treated as derived from, or allowable to, sources within the United States; and (iii) Lessee will maintain sufficient records to verify such use, which records will be furnished to Lessor within 30 days after receipt of a written demand therefor.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Cars in accordance with the terms of this Lease, but the Lessee shall not assign or transfer (except as otherwise permitted by this Section 15) or encumber its leasehold interest under this Lease in the Cars or any of them (except to the extent that the provisions of any existing mortgage on any of the lines of railroad of the Lessee may subject such leasehold interest to the lien thereof); and, in addition, the Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge or other encumbrance (other than an encumbrance resulting from claims against the Lessor not related to the ownership of the Cars) which may at any time be imposed on or with respect to any Car or the interest of the Lessor, the Lender or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor and the Lender, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Cars, except to the extent permitted by the provision of the next succeeding paragraph hereof.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession of the Cars and to the use thereof upon the lines of railroad owned or operated by it (either alone or jointly) or by any of its Affiliates, or upon lines of railroad over which the Lessee or any such Affiliate has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Cars upon connecting and other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of the Lease.

Nothing in this Section 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Cars or possession of the Cars to any

corporation (which shall have duly assumed the obligations hereunder of the Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety; provided, however, (i) that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition be in default under any provision of this Lease, (ii) such assignee or transferee shall be of a character so that after giving effect to such merger, consolidation or acquisition, the ability of the assignee or transferee to perform the obligations of the Lessee hereunder shall not, in the reasonable opinion of the Lessor and the Lender, be adversely affected; and (iii) such assignee or transferee shall execute an assumption agreement expressly assuming all of the obligations of the Lessee hereunder (including, but not limited to, Section 18 hereof).

In connection with any sublease or assignment by Lessee under this Section 15, whether or not Lessee is required to obtain the consent of the Lessor and Lender to any such transaction, Lessee agrees, at its expense, to cause any such assignment or sublease to be duly filed and recorded with the Interstate Commerce Commission in accordance with the 49 U.S.C. 11303 in order to protect the interest of the Lessor and Lender in and to the Cars under this Lease and the Security Documents.

The Lessee agrees that during the term of this Lease, the Lessee will not assign any Car to service involving the operation and maintenance thereof outside the United States of America and that during such term of any Car outside the United States of America will be limited to incidental and temporary use in Canada.

16. Lessee's Purchase and Renewal Options.

(a) Lessee's Renewal Option. If (i) no Event of Default shall have occurred and be continuing and (ii) this Lease shall not have been earlier terminated, Lessee shall be entitled, at its option upon written notice to Lessor, as hereinafter provided, to renew this Lease with respect to all Cars then subject to this Lease for 2 Renewal Terms of 24 months each. The Renewal Term shall commence at the expiration of the Lease Term. All of the provisions of this Lease shall be applicable during the Renewal Term for the Cars, except that, during the first Renewal Term, Rent shall be $\$$ per Car and during the second Renewal Term, Rent shall be $\$$ per Car. Said Rent shall be payable during each Renewal Term, on the Rent Payment Dates.

(b) Lessee's Purchase Option. If (i) no Event of Default shall have occurred and be continuing, and (ii) this Lease shall not have been earlier terminated, Lessee shall be entitled, at its option, upon written notice to Lessor, as

hereinafter provided, to purchase all Cars then subject to this Lease, at the expiration of the Lease Term or, as the case may be, at the expiration of the then Renewal Term of the Cars, for an amount, with respect to the Cars, payable in immediately available funds, equal to the lesser of \$ ~~★~~ or the fair market sales value thereof plus any applicable sales, excise or other taxes imposed as a result of such sale (other than gross or net income taxes attributable to such sale). Lessor's sale of the Cars shall be on an as-is, where-is basis, without any representation by, or recourse or warranty to, Lessor.

(c) Determination of Fair Market Sales Value. If Lessee has elected to exercise its purchase option, as provided in Section 16(b) hereof, then as soon as practicable following Lessor's receipt of the written notice from Lessee of Lessee's intent to exercise such option, Lessor and Lessee shall consult for the purpose of determining the fair market sales value of the Cars as of the end of the Lease Term, or, if this Lease has been renewed pursuant to Section 16(a) hereof, then as of the end of the then current Renewal Term, and any values agreed upon in writing shall constitute such fair market sales value of the Cars for the purposes of this Section 16. For all purposes of this Section 16, fair market sales value shall be determined on the basis of, and shall equal in value, the amount which would obtain in an arm's length transaction between an informed and willing buyer-user (other than a used equipment or scrap dealer) and an informed and willing seller under no compulsion to sell, and in such determination, costs of removal from the location of current use shall not be a deduction from such value, and it shall be assumed (whether or not the same be true) that the Cars have been maintained in accordance with the requirements of Section 10 hereof and would have been returned to Lessor in compliance with the requirement of Section 12 hereof.

(d) Notice of Exercise of Option. If Lessee intends to exercise the purchase option, Lessee shall give written notice to Lessor to such effect at least ninety (90) days prior to the expiration of the Lease Term of the Cars, or at least ninety (90) days prior to the expiration of the then current Renewal Term of the Cars as the case may be. If Lessee fails to give such written notice to Lessor as aforesaid, it shall be conclusively presumed that Lessee has elected not to exercise said purchase option.

17. Opinions of Counsel. Concurrently with or as soon as practicable after the execution and delivery of this Lease, the Lessee will deliver to the Lessor the written opinion of counsel for the Lessee, in scope and substance reasonably satisfactory to the Lessor and its counsel, to the effect that:

(a) the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of its jurisdiction of incorporation, with adequate corporate power to enter into this Lease;

(b) this Lease has been duly authorized, executed and delivered by the Lessee and constitutes a valid, legal and binding agreement, enforceable in accordance with its terms;

(c) the execution and performance of this Lease will not contravene or breach or create a material default under any legal, organizational or contractual obligation binding upon the Lessee;

(d) this Lease has been duly filed and recorded with the Interstate Commerce Commission under 49 U.S.C. 11303; no other filing or recording is necessary to protect in the United States of America the right, title and interest of the Lessor in and to the Cars.

At the same time as delivery of the foregoing opinion of counsel for the Lessee, the Lessor will deliver to the Lessee the written opinion of counsel for the Lessor, in scope and substance reasonably satisfactory to the Lessee and its counsel, substantially to the effect set forth in subparagraphs (a) through (c) above with respect to the Lessor, including a statement that this Lease is binding upon both parties in the HM Joint Venture in accordance with its terms and can be enforced by Lessee against the assets of each joint venturer, jointly and severally as well as their successors or assigns.

18. Recording. Prior to the delivery and acceptance of the Cars, and in connection with any sublease or assignment permitted by Section 15 hereof, the Lessee will cause this Lease and any such sublease or assignment to be filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. 11303. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord and redeposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Lender, for the purpose of proper protection to the satisfaction of the Lessor of its title to the Cars or for the purposes of carrying out the intention of this Lease or to maintain to the satisfaction of the Lender the security interest of the Lender in and to this Lease and the Cars under the Security Documents.

19. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

If to the Lessor: c/o Helm Equipment Leasing Corporation
One Embarcadero Center
Suite 3320
San Francisco, CA 94111

If to the Lessee: CSX Transportation, Inc.
Treasury Department - SC - 223
100 North Charles Street
Baltimore, MD 21201

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

Copies of each such notice shall be given to the Lender at:

First National Bank of Louisville
P.O. Box 36040
Louisville, KY 40232
Attention: Mr. J. E. Vittitow
Senior Vice President

20. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

21. Effect and Modification of Lease. This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Cars and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

22. Successors and Assigns. This Lease will bind and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

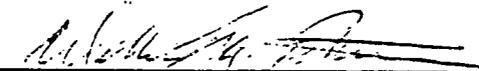
23. Execution. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

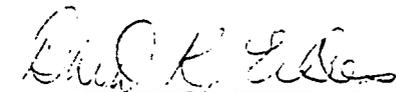
24. Law Governing. This Lease shall be construed, and all questions concerning its performance and the rights and remedies of the parties hereunder shall be determined, in accordance with the laws of California; provided, however, that the parties shall be entitled to all rights conferred by U.S.C. 11303.

IN WITNESS WHEREOF, the Lessor and the Lessee, each pursuant to due authority, have caused these presents to be signed in their respective names as of the date first above written.

HM JOINT VENTURE
By: HELM EQUIPMENT LEASING
CORPORATION, joint venturer

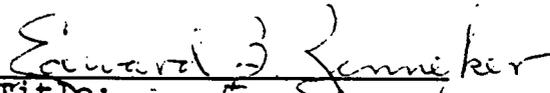
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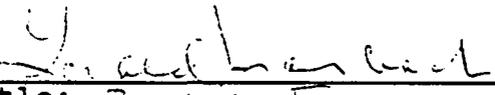

Title: Secretary

By 
Title: President

MANSBACH REALTY COMPANY
joint venturer

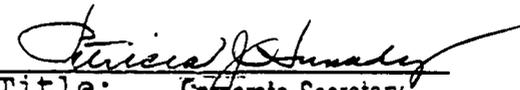
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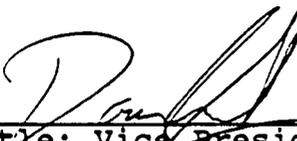

Title: Asst. Secy.

By 
Title: President

CSX TRANSPORTATION, INC.

Attest:


Title: Corporate Secretary

By 
Title: Vice President -
Equipment Group

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

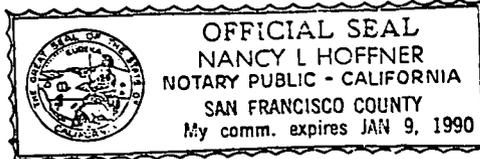
On this 11th day of ~~FEBRUARY~~ ^{MARCH}, 1986, before me personally appeared DAVID R. ECKLES, to me personally known, who, being by me duly sworn, says that he is EXECUTIVE VICE PRESIDENT, of HELM EQUIPMENT LEASING CORP., that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

My Commission Expires:

January 9, 1990

Nancy L Hoffner
NOTARY PUBLIC

[Notarial Seal]



STATE OF MARYLAND)
) ss.
CITY OF BALTIMORE)

On this 26th day of FEBRUARY, 1986, before me personally appeared DOUGLASS W. LIST, to me personally known, who being by me duly sworn says that he is a Vice President - Equipment Group, that said instrument was signed and sealed on behalf of CSX Transportation, Inc. by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

My Commission Expires:

July 1, 1990

Helen S. Klein
NOTARY PUBLIC

[Notarial Seal]

SCHEDULE A

<u>Existing Car Numbers</u>	<u>Maximum Number of Cars</u>	<u>New Car Numbers</u>
INLX 10000-10330	300	C&O 10000-10330

SCHEDULE B

<u>Payment Date</u>	<u>Casualty Value*</u>
Interim Period	\$ *
Period 1	*
Period 2	*
Period 3	*
Period 4	*
Period 5	*
Period 6	*
Period 7	*
Period 8	*
Period 9	*
Period 10	*

* Assumes rental payment has been made.

* The figures are set forth in the original lease

