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FILED

APR 14 1986

NEW NO

14944

RECORDATION NO. \_\_\_\_\_ FILED 1425

James Bayne  
Interstate Commerce Commission  
Washington, D.C. 20423

APR 14 1986 -3 55 PM

INTERSTATE COMMERCE COMMISSION

Dear Mr. Bayne

Enclosed for recordation under the provisions of 49 USC 11303(a) are the original and ~~one~~ counterparts of a Security Agreement dated as of March 1, 1986.

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

The names and addresses of the parties are:

REC'D  
APR 14 1986  
ST. PAUL, ILL.

No. 6104A089  
Date 4-14-86  
Fee \$ 10.00

Debtor: First Commercial Bank  
550 J Street  
Sacramento, California 95803

Secured Party: New England Mutual Life  
Insurance Company  
501 Boylston Street  
Boston, Massachusetts 02117

ICC Washington, D.C.

The undersigned acted as special counsel in connection with the preparation of the enclosed document and has knowledge of the matters set forth therein.

Please return the original and five copies of the Security Agreement to Deborah G. Page, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Also enclosed is a check in the amount of \$10.00 covering the required recording fee.

A short summary of the enclosed primary document to appear in the Index follows:

*Handwritten signature: C. D. ...*

Security Agreement between First Commercial Bank, as Debtor, 550 J Street, Sacramento, California 95803, and New England Mutual Life Insurance Company, as secured party, 501 Boylston Street, Boston, Massachusetts 02117, covering 190 100-ton, 4750 cubic feet covered hopper cars and 24 23,500 gallon tank cars.

Very truly yours,

CHAPMAN AND CUTLER

By Deborah G. Page  
Deborah G. Page

Enclosures

**SCHEDULE A**

**DESCRIPTION OF ITEMS OF EQUIPMENT**

Sixty (60), 100-ton, 4750 cubic foot covered hopper cars, Thrall Job No. 790-D with design changes to conform to Specification HC-100-47-224, manufactured by Thrall Car Manufacturing Company and bearing reporting marks and nos. as follows:

PCN 5104	RUSX 5105	AN 9010	BXN 5168
PCN 5109	RUSX 5106	AN 9011	BXN 5219
PCN 5115	RUSX 5108		BXN 5223
PCN 5140	RUSX 5126		BXN 5224
PCN 5141	RUSX 5127		
PCN 5149	RUSX 5128		
PCN 5162	RUSX 5129		
PCN 5163	RUSX 5130		
PCN 5164	RUSX 5131		
PCN 5165	RUSX 5132		
PCN 5166	RUSX 5133		
PCN 5167	RUSX 5134		
PCN 5169	RUSX 5135		
PCN 5170	RUSX 5136		
PCN 5192			
PCN 5202			
PCN 5203			
PCN 5204			
PCN 5205			
PCN 5206			
PCN 5207			
PCN 5208			
PCN 5209			
PCN 5210			
PCN 5211			
PCN 5212			
PCN 5213			
PCN 5214			
PCN 5215			
PCN 5216			
PCN 5217			
PCN 5220			
PCN 5221			
PCN 5222			
PCN 5225			
PCN 5226			
PCN 5228			
PCN 5230			
PCN 5231			
PCN 5233			

14944

REGISTRATION NO. .... FILED 1425

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INTERSTATE COMMERCE COMMISSION

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SECURITY AGREEMENT

Dated as of March 1, 1986

From

FIRST COMMERCIAL BANK

DEBTOR

To

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

SECURED PARTY

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USRS Lease No. 7

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Attachments to Security Agreement:

- Schedule 1 - Amortization Schedule
- Schedule 2 - Description of Equipment
- Exhibit A - Form of Secured Note

## SECURITY AGREEMENT

THIS SECURITY AGREEMENT dated as of March 1, 1986 (the "Security Agreement") is from FIRST COMMERCIAL BANK, a California corporation (the "Debtor"), whose post office address is 550 J Street, Sacramento, California 95803, Attention: President, to NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY (the "Secured Party"), whose post office address is 501 Boylston Street, Boston, Massachusetts 02117, Attention: Private Placement Department.

### R E C I T A L S:

A. The Debtor and the Secured Party have entered into a Term Financing Participation Agreement dated as of March 1, 1986 (the "Term Financing Participation Agreement") with United States Rail Services, Inc., a California corporation (the "Lessee"), and United States Leasing International, Inc., a California corporation (the "Parent"), providing for the commitment of the Secured Party to purchase the 10% Secured Notes due 1986-1997 (the "Notes") of the Debtor not exceeding an aggregate principal amount of \$1,462,150.28. The Notes are to be dated the date of issue, to bear interest from such date at the rate of 10% per annum prior to maturity, to be expressed to mature in twenty-three (23) consecutive semiannual installments, including both principal and interest, payable on July 31, 1986 and on each January 31 and July 31 thereafter, with the final installment payable on July 31, 1997, in accordance with the amortization schedule set forth in Schedule 1 hereto; and to be otherwise substantially in the form attached hereto as Exhibit A.

B. The Debtor has also heretofore entered into a Participation Agreement dated as of July 1, 1981 with the Lessee, the Parent and Chemical Business Credit Corp., as secured party, as amended by the Amendment to Participation Agreement and Lease dated as of October 1, 1981 among such parties (such Participation Agreement as so amended being hereinafter sometimes referred to as the "Interim Participation Agreement"), providing for the original acquisition of the equipment referred to in Section 1.1 hereof and certain covenants and agreements of the parties relating thereto.

C. The Notes and all principal thereof and interest thereon and all additional amounts and other sums at any time due and owing from or required to be paid by the Debtor under the terms of the Notes, this Security Agreement or the Term Financing Participation Agreement are hereinafter sometimes referred to as "indebtedness hereby secured".

D. All of the requirements of law relating to the transactions contemplated hereby have been fully complied with and all other acts and things necessary to make this Security

Agreement a valid, binding and legal instrument for the security of the Notes have been done and performed.

SECTION 1. GRANT OF SECURITY.

The Debtor in consideration of the premises and of the sum of Ten Dollars received by the Debtor from the Secured Party and other good and valuable consideration, receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of and interest on the Notes according to their tenor and effect, and to secure the payment of all other indebtedness hereby secured and the performance and observance of all of the Debtor's covenants and conditions in the Notes and in this Security Agreement and in the Term Financing Participation Agreement contained, does hereby convey, warrant, mortgage, assign, pledge and grant the Secured Party, its successors in trust and assigns, a security interest in, all and singular of the Debtor's right, title and interest in and to the properties, rights, interests and privileges described in Sections 1.1, 1.2 and 1.3 hereof, subject always to those limitations set forth in Section 1.4 hereof and to Excepted Rights in Collateral as defined in Section 1.6 hereof (all of which properties hereby mortgaged, assigned and pledged or intended so to be are hereinafter collectively referred to as the "Collateral").

1.1. Equipment Collateral. Collateral includes the railroad equipment described in Schedule 2 attached hereto and made a part hereof (collectively the "Equipment" and individually an "Item" or "Item of Equipment") constituting the Equipment leased and delivered under that certain Equipment Lease dated as of July 1, 1981, between the Debtor, as Lessor, and the Lessee, as Lessee, as amended by the Amendment to Participation Agreement and Lease referred to above and that certain Amendment to Equipment Lease dated as of March 1, 1986 between the Debtor and the Lessee (the Equipment Lease as so amended being hereinafter referred to as the "Lease"); together with all accessories, equipment, parts and appurtenances appertaining or attached to any of the Equipment hereinabove described, whether now owned or hereafter acquired, except such thereof as remain the property of the Lessee under the Lease and all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to any and all of said Equipment, except such thereof as remain the property of the Lessee under the Lease, together with all the rents, issues, income, profits and avails therefrom.

1.2. Rental Collateral. Collateral also includes all right, title, interest, claims and demands of the Debtor as lessor in, to and under the Lease, including all extensions of the term of the Lease, together with all rights, powers, privileges, options and other benefits of the Debtor as lessor under the Lease, including, without limitation the rights, powers,

privileges, options and other benefits of the Debtor, as assignee for security purposes, in, to and under the Subleases (as such term is defined in the Lease), and including further, without limitation:

(1) the immediate and continuing right to receive and collect all rental, casualty value payments, insurance proceeds, condemnation awards and other payments, tenders and security (except those sums reserved as Excepted Rights in Collateral under Section 1.6 hereof) now or hereafter payable or receivable by the Lessor under the Lease pursuant thereto;

(2) the right to make all waivers and agreements and to enter into any amendments relating to the Lease or any provision thereof except with regard to the right of the Debtor to receive those sums reserved as Excepted Rights in Collateral under Section 1.6 hereof; and

(3) the right to take such action upon the occurrence of an Event of Default under the Lease or an event which, with the lapse of time or the giving of notice, or both, would constitute an Event of Default under the Lease, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Lease or by law, and to do any and all other things whatsoever which the Debtor or any lessor is or may be entitled to do under the Lease;

it being the intent and purpose hereof that subject always to Excepted Rights in Collateral (as defined in Section 1.6 hereof), the assignment and transfer to the Secured Party of said rights, powers, privileges, options and other benefits shall be effective and operative immediately and shall continue in full force and effect, and the Secured Party shall have the right to collect and receive all rental, casualty value payments and termination value payments, if any, and other sums for application in accordance with the provisions of Section 4 hereof at all times during the period from and after the date of this Security Agreement until the indebtedness hereby secured has been fully paid and discharged.

1.3. Guaranty Collateral. Collateral also includes the provisions of Section 8 of the Interim Participation Agreement entered into by the Parent in respect of the Lease, providing for the guaranty by the Parent of all payments of rental and all other amounts payable by the Lessee under the Lease and the performance by the Lessee of all of its obligations thereunder (such provisions being hereinafter referred to as the "Lease Guaranty"), and including, without limitation, any and all sums due and to become due under said Lease Guaranty insofar as the same relates to the Collateral described in Section 1.2 hereof.

1.4. Limitations to Security Interest. The security interest granted by this Section 1 is subject to (a) the right, title and interest of the Lessee in and to the Equipment under the Lease, (b) the lien of current taxes and assessments not in default (but only if such taxes are entitled to priority as a matter of law), or, if delinquent, the validity of which is being contested in good faith, and (c) liens and charges permitted by clause (d) of Section 7 of the Lease (collectively, "Permitted Encumbrances").

1.5. Duration of Security Interest. The Secured Party, its successors in trust and assigns shall have and hold the Collateral forever; provided, always, however, that such security interest is granted upon the express condition that if the Debtor shall pay or cause to be paid all the indebtedness hereby secured and shall observe, keep and perform all the terms and conditions, covenants and agreements herein and in the Term Financing Participation Agreement and the Notes contained, then these presents and the estate hereby granted and conveyed shall cease and this Security Agreement shall become null and void and the Secured Party shall evidence the release of this Security Agreement in accordance with the provisions of Section 7.13 hereof; otherwise this Security Agreement shall remain in full force and effect.

1.6. Excepted Rights in Collateral. There are expressly excepted and reserved from the security interest and operation of this Security Agreement the following described properties, rights, interests and privileges (hereinafter sometimes referred to as the "Excepted Rights in Collateral") and nothing herein or in any other agreement contained shall constitute an assignment of said Excepted Rights in Collateral to the Secured Party:

(a) all payments from or rights of the Debtor against the Lessee under Sections 8, 13 and 15 of the Lease for taxes, impositions, loss or liability suffered or incurred by the Debtor or repayments or interest thereon under Section 20 of the Lease which by the terms of any of such Sections of the Lease are payable to the Debtor for its own account;

(b) all rights of the Debtor under the Lease or otherwise to demand, collect, sue for or otherwise obtain all amounts from the Lessee due the Debtor on account of any such payments, provided that the rights excepted and reserved by this paragraph (b) shall not be deemed to include the exercise of any remedies provided for in Section 18 of the Lease except those contained in clause (i) of said Section 18;

(c) any insurance proceeds payable under general public liability policies maintained by the Lessee pursuant to Section 12 of the Lease which by the terms of such policies or the terms of the Lease are payable to the Debtor for its own account or in respect of any amount, payment, repayment or right described in clause (a) or (b) of this Section 1.6; and

(d) all rights of the Debtor under the Lease Guaranty to demand, collect, sue for or otherwise obtain amounts from the Parent due the Debtor on account of those payments described in Subsection 1.6(a), (b) or (c) above provided that the rights excepted and reserved by this Subsection 1.6(d) shall not be deemed to include the exercise of any remedies provided for in Section 18 of the Lease except those contained in clause (i) of said Section 18.

In the event the Secured Party shall receive payment of a sum which is included in "Excepted Rights in Collateral", the Secured Party shall promptly notify Debtor and pay such amount to or upon the order of the Debtor.

## SECTION 2. COVENANTS AND WARRANTIES OF THE DEBTOR.

The Debtor covenants, warrants and agrees as follows:

2.1. Debtor's Duties. The Debtor covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, restrictions, covenants and agreements set forth in the Term Financing Participation Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein and as though any amendment or supplement to the Term Financing Participation Agreement were fully set out in an amendment or supplement to this Security Agreement. The Debtor undertakes to perform only such duties as are expressly and specifically set forth herein and in the other Operative Agreements (as defined in the Term Financing Participation Agreement) other than the Interim Participation Agreement and no implied obligations or covenants shall be read into this Security Agreement or any other Operative Agreements against the Debtor.

2.2. Warranty of Title. The Debtor has such title to each Item of Equipment as was conveyed to it by the manufacturer thereof and has the right, power and authority to grant a security interest in the Collateral to the Secured Party for the uses and purposes herein set forth. The Debtor also agrees that it will,

in its individual capacity and at its own cost and expense, without regard to the provisions of Section 6 hereof, promptly take such action as may be necessary to duly discharge any liens and encumbrances on the Collateral which result from claims against the Debtor in its individual capacity and not related to the ownership of the Equipment or any transactions pursuant to the Operative Agreements provided that the foregoing shall not apply to any liens, charges or encumbrances on account of claims either not yet due or being contested in good faith by appropriate proceedings so long as such proceedings do not involve a material danger of the sale, forfeiture or loss of any part of the Collateral and that the Owner has adequately bonded such lien or reserves sufficient to discharge such lien have been provided on the books of the Owner.

2.3. Further Assurances. The Debtor will, at no expense to the Secured Party, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the perfection of the security interest being herein provided for in the Collateral, whether now owned or hereafter acquired. Without limiting the foregoing but in furtherance of the security interest herein granted in the rents and other sums due and to become due under the Lease, the Debtor covenants and agrees that it will, pursuant to Section 4(b) of the Lease, notify the Lessee of the assignment hereunder and direct the Lessee to make all payments of such rents and other sums due and to become due under the Lease other than Excepted Rights in Collateral directly to the Secured Party or as the Secured Party may direct in writing.

2.4. After-Acquired Property. Any and all property described or referred to in the granting clauses hereof which is hereafter acquired shall ipso facto, and without any further conveyance, assignment or act on the part of the Debtor or the Secured Party, become and be subject to the security interest herein granted as fully and completely as though specifically described herein, but nothing in this Section 2.4 contained shall be deemed to modify or change the obligation of the Debtor under Section 2.3 hereof.

2.5. Recordation and Filing. There is no financing statement or other filed or recorded instrument in which the Debtor is named and which the Debtor has signed, as debtor or mortgagor, now on file in any public office covering any of the Collateral excepting the financing statements or other instruments filed in connection with the transactions contemplated by the Interim Participation Agreement (and amounts realized from the sale of the Notes pursuant to the Term Financing Participation Agreement, together with certain additional amounts payable by the Lessee, will be sufficient to, and will be used to, pay in full the indebtedness created under such Interim Participation Agreement) and except for the financing statements or other

instruments filed or to be filed in respect of and for the security interest provided for herein.

2.6. Modifications of the Lease. The Debtor will not:

(a) declare a default or exercise the remedies of the Lessor under, or terminate, modify or accept a surrender of, or offer or agree to any termination, modification or surrender of, the Lease (except as otherwise expressly provided herein) or by affirmative act consent to the creation or existence of any security interest or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof except and notwithstanding any other provision of this Security Agreement (i) the Debtor shall retain all rights to receive and retain (x) all Excepted Rights in Collateral and (y) amounts payable by the Guarantor under Section 8 of the Participation Agreement to the extent such amounts relate to Excepted Rights in Collateral, (ii) the Debtor shall have the right, but not to the exclusion of the Secured Party, (v) to receive from Lessee all notices, copies of all documents, and all information which the Lessee is permitted or required to give or furnish to "Lessor" pursuant to the Lease, (w) to inspect the Equipment, (x) to exercise the right to solicit bids pursuant to Section 11 of the Lease, (y) to exercise the rights of Lessor under Section 20 of the Lease, and (z) to commence an action or actions to require Lessee to perform its obligations with respect to Excepted Rights in Collateral in the manner provided in Section 1.6(b) and/or (d) hereof and (iii) so long as no Event of Default shall have occurred and be continuing, the Debtor shall have the right to exercise the rights of the Lessor under Section 16 of the Lease;

(b) except in respect of Excepted Rights in Collateral, receive or collect any rental payment under the Lease prior to the date for payment thereof provided for by the Lease or assign, transfer or hypothecate (other than to the Secured Party hereunder) any rent payment then due or to accrue in the future under the Lease in respect of the Equipment; or

(c) except in respect of Excepted Rights in Collateral, sell, mortgage, transfer, assign or hypothecate (other than to the Secured Party hereunder) its interest in the Equipment or any part thereof or in any amount to be received by it hereunder or under the Lease from the use or disposition of the Equipment; provided that, the Debtor may sell its Owner Interest (as defined in the Term Financing Participation Agreement) pursuant to and in accordance with the provisions of

Section 3.4(d) of the Term Financing Participation Agreement.

2.7. Power of Attorney. The Debtor does hereby irrevocably constitute and appoint the Secured Party its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, income and other sums which are assigned under Sections 1.1, 1.2 and 1.3 hereof with full power to settle, adjust or compromise any claim thereunder as fully as the Debtor could itself do, and to endorse the name of the Debtor on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of the Debtor or otherwise, which the Secured Party may deem necessary or appropriate to protect and preserve the right, title and interest of the Secured Party in and to such rents and other sums and the security intended to be afforded hereby provided that nothing contained herein shall prevent the Debtor from bringing suit in its own name or to otherwise enforce Debtor's rights with respect to Excepted Rights in Collateral. The rights of the Secured Party under this Section 2.7 may be exercised only upon the occurrence and during the continuance of an Event of Default. Secured Party hereunder agrees to deliver to the Debtor a copy of each written notice or other communication given by Secured Party as the Debtor's attorney-in-fact under this Section 2.7, said copy to be given to the Debtor as and when such notice or other communication is given.

2.8. Notice of Default. The Debtor further covenants and agrees that it will give the Secured Party prompt written notice of any event or condition constituting an Event of Default under the Lease if the Debtor has actual knowledge of such event or condition.

2.9. Maintenance of Corporate Existence. The Debtor will preserve and keep in full force and effect its corporate existence, rights and franchises and all licenses and permits necessary to the performance of its obligations hereunder, except as otherwise provided in Section 2.10 hereof.

2.10. Restrictions on Mergers, Consolidations and Sales of Assets. The Debtor will not sell, lease, transfer or otherwise dispose of all or substantially all of its corporate property or assets to any person, firm or corporation or consolidate with or merge into any other corporation or permit another corporation to merge into it unless (i) the successor formed by or resulting from such consolidation or merger or to which such sale, lease or other disposition shall have been made shall be a solvent corporation organized under the laws of the United States of America or a State thereof or the District of Columbia; (ii) such successor corporation (if other than the Debtor) shall assume all of the

Debtor's obligations under this Security Agreement, the Notes, the Term Financing Participation Agreement and the Lease; and (iii) immediately after such merger, sale, lease or other disposition, such successor corporation shall not be in default in the performance or observance of any of the covenants, agreements or conditions contained in the Term Financing Participation Agreement, the Notes, this Security Agreement or the Lease.

SECTION 3. POSSESSION, USE AND RELEASE OF PROPERTY.

3.1. Possession of Collateral. While the Debtor is not in default hereunder, it shall be suffered and permitted to remain in full possession, enjoyment and control of the Equipment and to manage, operate and use the same and each part thereof with the rights and franchises appertaining thereto, provided, always, that the possession, enjoyment, control and use of the Equipment shall at all times be subject to the observance and performance of the terms of this Security Agreement. It is expressly understood that the use and possession of the Equipment by the Lessee under and subject to the Lease or by any sublessee under any permitted sublease shall not constitute a violation of this Section 3.1.

3.2. Release of Property. So long as no Event of Default referred to in Section 17 of the Lease has occurred and is continuing to the knowledge of the Secured Party, the Secured Party shall execute a release in respect of any Item of Equipment designated by the Lessee for settlement pursuant to Section 11 of the Lease (by reason of either an Event of Loss or optional termination pursuant to said Section 11) upon receipt from the Lessee of written notice designating the Item of Equipment in respect of which the Lease will terminate and the receipt from the Lessee of all sums payable for such Item of Equipment in compliance with Section 11 of the Lease.

3.3. Protection of Purchaser. No purchaser in good faith of property purporting to be released hereunder shall be bound to ascertain the authority of the Secured Party to execute the release, or to inquire as to any facts required by the provisions hereof for the exercise of such authority; nor shall any purchaser, in good faith, of any item or unit of the Collateral be under obligation to ascertain or inquire into the conditions upon which any such sale is hereby authorized.

SECTION 4. APPLICATION OF ASSIGNED RENTALS AND CERTAIN OTHER MONEYS RECEIVED BY THE SECURED PARTY.

4.1. Application of Rents and Other Payments. As more fully set forth in Sections 1.2 and 1.3 hereof and except as provided in Section 1.6 hereof, the Debtor has hereby granted to the Secured Party a security interest in rents, issues, profits,

income and other sums due and to become due under the Lease and the Lease Guaranty in respect of the Equipment as security for the Notes. So long as no Event of Default as defined in Section 5 hereof has occurred and is continuing:

(a) The amounts from time to time received by the Secured Party which constitute payment by the Lessee under the Lease (or by the Parent in respect thereof under the Lease Guaranty) of the installments of rental under the Lease shall be applied first to the payment of the installments of principal and interest (and in each case first to interest and then to principal) on the Notes which have matured or will mature on or before the due date of the installments of rental which are received by the Secured Party, and then the balance, if any, of such amounts shall be paid to or upon the order of the Debtor in immediately available funds not later than the first business day following the receipt thereof;

(b) The amounts from time to time received by the Secured Party which constitute settlement by the Lessee of the "Casualty Value" for any Item of Equipment pursuant to Section 11 of the Lease (or by the Parent in respect thereof under the Lease Guaranty) shall be applied by the Secured Party as follows:

(i) First, an amount equal to the accrued and unpaid interest on that portion of the Notes to be prepaid pursuant to the following clause (ii) shall be applied on the Notes;

(ii) Second, an amount equal to the Loan Value of such Item of Equipment for which settlement is then being made shall be applied to the prepayment of the Notes so that each of the remaining installments of each Note shall be reduced in the proportion that the principal amount of the prepayment bears to the unpaid principal amount of the Notes immediately prior to the prepayment; and

(iii) Third, the balance, if any, of such amounts held by the Secured Party after making the applications provided for by the preceding clauses (i) and (ii) shall be released to or upon the order of the Debtor in immediately available funds on the date of payment of the amounts provided in the preceding clauses (i) and (ii).

For purposes of this Section 4.1(b), the "Loan Value" in respect of any Item of Equipment, shall be an amount

equal to the product of (A) a fraction, the numerator of which is an amount equal to the Owner's Cost (as defined in the Interim Participation Agreement) of such Item of Equipment for which settlement is then being made and the denominator of which is the aggregate Owner's Cost of all Items of Equipment then subject to the Lease (including the Owner's Cost of such Item of Equipment for which settlement is then being made), times (B) the unpaid principal amount of the Notes immediately prior to the prepayment provided for in this Section 4.1(b) (after giving effect to all payments of installments of principal made or to be made on the date of prepayment provided for in this Section 4.1(b));

(c) The amounts from time to time received by the Secured Party which constitute settlement by the Lessee of the "Termination Value" for the Equipment pursuant to Section 11 of the Lease (or by the Lease Guarantor in respect thereof under the Lease Guaranty) shall be applied by the Secured Party as follows:

(i) First, an amount equal to the accrued and unpaid interest on the Notes shall be applied on the Notes;

(ii) Second, an amount equal to the unpaid principal balance of the Notes shall be applied to the prepayment of the Notes, together with the Termination Premium; and

(iii) Third, the balance, if any, of such amounts held by the Secured Party after making the applications provided for by the preceding clauses (i) and (ii) shall be released to or upon the order of the Debtor in immediately available funds on the date of payment of the amounts provided in the preceding clauses (i) and (ii).

For purposes of this Section 4.1(c), the term "Termination Premium" shall mean the amount, if any (calculated at the time of any prepayment of the Notes or portion thereof pursuant to the preceding clause (ii)), by which (A) the then present value of the unpaid balance of the installments of principal and interest payable on such Notes or portion thereof discounted on a semiannual basis at a per annum interest rate equal to the lesser of 10% or the sum of 1.5% plus the per annum yield on a direct investment in Treasury Obligations then available for purchase in the marketplace having a purchase price equal to such principal amount to be prepaid and having a Weighted Average Life to Maturity equal to the Weighted

Average Life to Maturity of the Notes exceeds (B) the then unpaid balance of principal and accrued and unpaid interest on the Notes. The term "Treasury Obligations" shall mean United States Treasury Notes or Bonds which are non-callable prior to the stated maturity thereof. The term "Weighted Average Life to Maturity" with respect to either the Notes or Treasury Obligations shall mean the number of years obtained by dividing (a) the then outstanding principal amount thereof into (b) the total of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payment, including payment at final maturity by (ii) the number of years (calculated to the nearest one-twelfth) which will elapse between such date and making of the payment.

(d) The amounts received by the Secured Party from time to time which constitute proceeds of casualty insurance maintained by the Lessee in respect of the Equipment, shall be held by the Secured Party as a part of the Collateral and shall be applied by the Secured Party from time to time to any one or more of the following purposes:

(i) So long as no Event of Default under the Lease has occurred and is continuing to the knowledge of the Secured Party, the proceeds of such insurance shall, if the Item of Equipment is to be repaired, be released to the Debtor to reimburse the Lessee for expenditures made for such repair upon receipt by the Secured Party of a certificate of an authorized officer of the Lessee to the effect that any damage to such Item in respect of which such proceeds were paid has been fully repaired; and

(ii) If the insurance proceeds shall not have been released to the Debtor pursuant to the preceding clause (i) within 6 months from the receipt thereof by the Secured Party, or if within such period the Lessee shall have notified the Secured Party in writing that the Lessee is not required to repair or restore the Item or Items of Equipment for which such proceeds were received and the Lease is to be terminated in respect of such Item or Items in accordance with the provisions of Section 11(c) of the Lease, then so long as no Event of Default under the Lease has occurred and is continuing to the knowledge of the Secured Party, the insurance proceeds shall be applied by the Secured Party as follows:

(A) First, to the prepayment of the Notes, all in the manner and to the extent provided for by clauses First and Second of Section 4.1(b) hereof; and

(B) Second, the balance, if any, of such insurance proceeds held by the Secured Party after making the applications provided for by the preceding subparagraph (A) shall be released to or upon the order of the Debtor in immediately available funds on the date of such prepayment of the Notes.

4.2. Multiple Notes. If more than one Note is outstanding at the time any such application is made, such application shall be made on all outstanding Notes ratably in accordance with the aggregate principal amount remaining unpaid thereon.

4.3. Default. If an Event of Default referred to in Section 5 hereof has occurred and is continuing, all amounts received by the Secured Party pursuant to Sections 1.2 or 1.3 hereof (but subject to Section 1.6 hereof), shall be applied in the manner provided for in Section 5 in respect of proceeds and avails of the Collateral.

## SECTION 5. DEFAULTS AND OTHER PROVISIONS.

5.1. Events of Default. The term "Event of Default" for all purposes of this Security Agreement shall mean one or more of the following:

(a) Default in payment of an installment of the principal of, or interest on, any Note when and as the same shall become due and payable, whether at the due date thereof or at the date fixed for prepayment or by acceleration or otherwise, and any such default shall continue unremedied for ten days after receipt of written notice thereof from the Secured Party to the Debtor;

(b) An Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease; provided that such an Event of Default in respect of the non-payment of Rent by Lessee or Parent shall not constitute an Event of Default hereunder unless and until the giving of notice and passage of time required by Section 5.1(a) hereof, but neither this proviso nor such notice shall permit the Debtor to cure such non-payment

of Rent except in the manner and subject to the limitations provided in Section 5.3 hereof;

(c) Default on the part of the Debtor in the due observance or performance of any covenant or agreement to be observed or performed by the Debtor under this Security Agreement or the Term Financing Participation Agreement, and such default shall continue unremedied for 30 days after receipt of written notice from the Secured Party to the Debtor specifying the default and demanding the same to be remedied;

(d) Any representation or warranty on the part of the Debtor made herein or in the Term Financing Participation Agreement or in any report, certificate, financial or other statement furnished in connection with this Security Agreement, the Lease or the Term Financing Participation Agreement, or the transactions contemplated therein, shall prove to have been false or misleading in any material respect when made;

(e) Any claim, lien or charge (other than Permitted Encumbrances and liens, charges and encumbrances which the Lessee is obligated to discharge under Section 7 of the Lease) shall be asserted against or levied or imposed upon the Equipment which is prior to or on a parity with the security interest granted hereunder, and such claim, lien or charge shall not be discharged or removed within 30 days after written notice from the Secured Party to the Debtor and the Lessee demanding the discharge or removal thereof;

(f) The Debtor shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in any involuntary case or other proceeding commenced against it, or shall make a 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 to authorize any of the foregoing; or

(g) An involuntary case or other proceeding shall be commenced against the Debtor seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment

of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 days.

5.2. Secured Party's Rights. The Debtor agrees that when any Event of Default as defined in Section 5.1 has occurred and is continuing, but subject always to Section 6 hereof, the Secured Party shall have the rights, options, duties and remedies of a secured party, and the Debtor shall have the rights and duties of a debtor, under the Uniform Commercial Code of California (regardless of whether such Code or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted) and without limiting the foregoing, the Secured Party may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute.

(a) The Secured Party may, or at the written direction of the holders of at least 25% of the then unpaid principal amount of the Notes will, by notice in writing to the Debtor declare the entire unpaid balance of the Notes to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable;

(b) Subject always to the rights of the Lessee under the Lease, the Secured Party personally or by agents or attorneys, shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the Collateral, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and search for, take possession of, remove, keep and store the same, or use and operate or lease the same until sold;

(c) Subject always to the rights of the Lessee under the Lease, the Secured Party may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of the date, place and time of such sale by registered mail to the Debtor and the Lessee once at least 15 days prior to the date of such sale, and any

other notice which may be required by law, sell and dispose of the Collateral, or any part thereof, at public auction to the highest bidder, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Secured Party may determine, and at any place (whether or not it be the location of the Collateral or any part thereof) designated in the notice above referred to; provided, however, that any such sale shall be held in a commercially reasonable manner. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice, and the Secured Party or the holder or holders of the Notes, or of any interest therein, may bid and become the purchaser at any such sale;

(d) Subject always to the rights of the Lessee under the Lease, the Secured Party may proceed to protect and enforce this Security Agreement and the Notes by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted; or for foreclosure hereunder, or for the appointment of a receiver or receivers for the Collateral or any part thereof, or subject to the provisions of Section 6 hereof, for the recovery of judgment for the indebtedness hereby secured or for the enforcement of any other proper, legal or equitable remedy available under applicable law; and

(e) Subject always to the rights of the Lessee under the Lease, the Secured Party may proceed to exercise all rights, privileges and remedies of the Debtor under the Lease, and may exercise all such rights and remedies either in the name of the Secured Party or in the name of the Debtor for the use and benefit of the Secured Party.

5.3. Certain Rights of the Debtor on the Occurrence of an Event of Default Under the Lease. Except as hereinafter provided, if an Event of Default under the Lease of which the Secured Party has knowledge shall have occurred and be continuing the Secured Party shall give the Debtor not less than 20 days' prior written notice of the date (the "Enforcement Date") on which the Secured Party will exercise any remedy or remedies pursuant to Section 5.2 hereof. If an Event of Default under the Lease shall have occurred and be continuing, the Debtor shall have the following rights hereunder:

(a) Right to Cure. In the event of the occurrence of an Event of Default in respect of the payment of Basic

Rent under the Lease on the day it becomes due and payable, the Debtor may, on or prior to the Enforcement Date, pay to the Secured Party an amount equal to any principal and interest (including interest, if any, on overdue payments of principal and interest) then due and payable on the Notes, and such payment by the Debtor shall be deemed to cure any Event of Default under the Lease and hereunder which would otherwise have arisen on account of the non-payment by the Lessee of such installment of Basic Rent under the Lease; provided, however, that the Debtor may not exercise such right more than five times or if Lessee shall have failed to make three successive payments of Basic Rent.

In the event of the occurrence of an Event of Default in respect of the payment of Supplemental Rent under the Lease or the performance of any other covenant or condition under the Lease, the Debtor may, but shall not be obligated to, prior to the Enforcement Date, make such payment or render such performance, and any such payment or performance on or prior to the Enforcement Date shall be deemed to cure any Event of Default under the Lease and hereunder which would otherwise have arisen on account of such non-payment or non-performance; provided, however, that the Debtor may not exercise such right in respect of defaults requiring the payment of amounts which, when added to amounts already paid pursuant to the provisions of this paragraph, would cause the total of such defaults so cured to exceed \$100,000 in any one year and \$400,000 in the aggregate, except with the prior written approval of the Secured Party.

Except as hereinafter in this Section 5.3(a) provided, the Debtor shall not, by exercising the right to cure any such Event of Default, obtain any lien, charge or encumbrance of any kind on any of the Collateral for or on account of costs or expenses incurred in connection with the exercise of such right nor shall any claims of the Debtor against the Lessee or any other party for the repayment of such costs or expenses impair the prior right and security interest of the Secured Party in and to the Collateral. Upon such payment by the Debtor of the amount of principal and interest then due and payable on the Notes or other payment as described above, the Debtor shall be subrogated to the rights of the Secured Party in respect of the Basic Rent, Supplemental Rent or other payment which was overdue at the time of such payment and interest payable by the Lessee on account of its being overdue, and therefore, if no other Event of Default shall have occurred and be continuing and if all principal and interest payments due on the Notes have been paid at the time of receipt by the Secured Party of

such Basic Rent, Supplemental Rent or other payment, the Debtor shall be entitled to receive such Basic Rent, Supplemental Rent or other payment and such interest upon receipt thereof by the Secured Party; provided that (i) in the event the principal and interest on the Notes shall have become due and payable pursuant to Section 5.2(a) hereof, such subrogation shall, until principal of and interest on all Notes shall have been paid in full, be subordinate to the rights of the Secured Party in respect of such payment of Basic Rent, Supplemental Rent or other payment and such interest on such overdue Basic Rent, Supplemental Rent or other payment prior to receipt by the Debtor of any amount pursuant to such subrogation, and (ii) the Debtor shall not be entitled to seek to recover any such payment (or any payment in lieu thereof) except pursuant to the foregoing right of subrogation.

(b) Option to Prepay Notes. Whether or not the Debtor shall then have the right to cure an Event of Default under the Lease pursuant to Section 5.3(a) above, if an Event of Default shall have occurred and be continuing and the unpaid balance of the Notes shall have been declared due and payable pursuant to Section 5.2(a) hereof, before the sale or taking of the Equipment in accordance with the provisions of Section 5.2 hereof, the Debtor may at its option prepay the Notes, without premium or penalty, by payment of the entire unpaid principal amount thereof, together with accrued interest thereon, including interest on overdue amounts, to the date of prepayment and in the event the Debtor shall do so, the Secured Party agrees to discontinue the exercise of any of its remedies provided hereunder and to take such reasonable action at the sole cost and expense of the Debtor, at the request of the Debtor, to discontinue any enforcement action commenced prior to such payment by the Secured Party in full and release and transfer to the Debtor all rights of the Secured Party in the Collateral.

5.4. Acceleration Clause. In case of any sale of the Collateral, or of any part thereof, pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Security Agreement, the principal of the Notes, if not previously due, and the interest accrued thereon, shall at once become and be immediately due and payable; also in the case of any such sale, the purchaser or purchasers, for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Notes held by such purchaser and any claims for interest matured and unpaid thereon, in order that there may be credited as paid on the purchase price the sum apportionable and applicable to such Notes including principal and interest thereof out of the net proceeds of such sale after allowing for the proportion of the total purchase price required to be paid in cash.

5.5. Effect of Sale. Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Debtor in and to the property sold, shall be a perpetual bar, both at law and in equity, against the Debtor, its successors and assigns, and against any and all persons claiming the property sold or any part thereof under, by or through the Debtor, its successors or assigns (subject, however, to the then existing rights, if any, of the Lessee under the Lease).

5.6. Application of Sale Proceeds. The proceeds and/or avails of any sale of the Collateral, or any part thereof, and the proceeds and the avails of any remedy hereunder shall be paid to and applied as follows:

(a) First, to the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and of all reasonable fees and expenses of the agents, attorneys and the counsel for the Secured Party and of all proper expenses, liability and advances incurred or made hereunder by the Secured Party, or the holder or holders of the Notes and of all taxes, assessments or liens superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) Second, to the payment to the holder or holders of the Notes of the amount then owing or unpaid on the Notes for principal and interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon the Notes, then ratably according to the aggregate of such principal and the accrued and unpaid interest, with application on each Note to be made, first, to the unpaid interest thereon, and second, to unpaid principal thereof; such application to be made upon presentation of the several Notes, and the notation thereon of the payment, if partially paid, or the surrender and cancellation thereof, if fully paid; and

(c) Third, to the payment of the surplus, if any, to the Debtor, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

5.7. Discontinuance of Remedies. In case the Secured Party shall have proceeded to enforce any right under this Security Agreement by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case the Debtor, the Secured Party and the holder or holders of the Notes shall be restored to their former positions and

rights hereunder with respect to the property subject to the security interest created under this Security Agreement.

5.8. Cumulative Remedies. No delay or omission of the Secured Party or of the holder of any Note to exercise any right or power arising from any default on the part of the Debtor, shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Secured Party or the holder of any Note of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom except as may be otherwise provided herein. No remedy hereunder is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy given hereunder or otherwise existing; nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Security Agreement operate to prejudice, waive or affect the security of this Security Agreement or any rights, powers or remedies hereunder, nor shall the Secured Party or holder of any of the Notes be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

5.9. Secured Party's Obligations. In case an Event of Default has occurred and is continuing to the knowledge of the Secured Party, the Secured Party shall exercise such of the rights and powers vested in it by this Security Agreement in a commercially reasonable manner. The Secured Party shall not be liable for any action taken or omitted in good faith and believed to be authorized or within the discretion or rights or powers conferred by this Security Agreement.

## SECTION 6. LIMITATIONS OF LIABILITY.

Anything in this Security Agreement to the contrary notwithstanding, neither the Secured Party nor the holder of any Note nor the successors or assigns of any of said persons, shall have any claim, remedy or right to proceed (at law or in equity) against the Debtor in its individual corporate capacity or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor (except against the Debtor in the case of the gross negligence or willful misconduct of the Debtor) for the payment of any deficiency or any other sum owing on account of the indebtedness evidenced by the Notes or for the payment of any liability resulting from the breach of any representation, agreement or warranty of any nature whatsoever (except as hereinafter set forth in this Section 6), from any source other than the Collateral, including the sums due and to become due under the Lease and the Lease Guaranty; and the Secured Party by the execution of this

Security Agreement and the holders of the Notes by acceptance thereof, waive and release any personal liability of the Debtor in its individual corporate capacity and any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor (except against the Debtor in the case of the gross negligence or willful misconduct of the Debtor) for and on account of such indebtedness or such liability, and the Secured Party and the holders of the Notes agree to look solely to the Collateral, including the sums due and to become due under the Lease and the Lease Guaranty, for the payment of said indebtedness or the satisfaction of such liability; provided, however, nothing herein contained shall limit, restrict or impair the rights of the holders of the Notes to accelerate the maturity of the Notes upon a default under this Security Agreement, to bring suit and obtain a judgment against the Debtor on the Notes (provided that neither the Debtor nor any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor, shall have any personal liability on such judgment and the satisfaction thereof shall be limited to the Collateral, including any interest therein of the Debtor) or to exercise all rights and remedies provided under this Security Agreement or otherwise realize upon the Collateral; and provided, further, that nothing in this Section shall be construed to limit in scope or substance those representations and warranties of the Debtor in its individual corporate capacity (but not any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor) set forth in Section 3.1 of the Term Financing Participation Agreement or the warranty and agreement of the Debtor set forth in Section 2.2 of this Security Agreement, for all of which the Debtor shall remain personally liable. In no event shall any act or omission be deemed the gross negligence or willful misconduct of the Debtor if such act or omission shall arise out of or in connection with the failure of the Lessee to perform its obligations under the Lease, the Term Financing Participation Agreement or the Interim Participation Agreement.

#### SECTION 7. MISCELLANEOUS.

7.1. Registration and Execution. The Notes shall be registered as to principal and interest and shall be signed on behalf of the Debtor by its President or any Vice President or any other officer of the Debtor who, at the date of the actual execution thereof, shall be a proper officer to execute the same.

7.2. Payment of the Notes. (a) The principal of and interest on the Notes shall be payable by wire transfer of immediately available funds as provided in Schedule I to the Term Financing Participation Agreement or to such other account as the Note Purchaser or its successor hereunder shall otherwise

designate. All payments so made shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sums so paid. Each holder (or the person for whom such holder is a nominee) by its acceptance of any Note agrees that, before selling, transferring or otherwise disposing of such Note, it will present such Note to the Debtor for transfer and notation as provided in Sections 7.4 and 7.5.

(b) All amounts constituting payment of the installments of rental under the Lease or Casualty Value or Termination Value or proceeds from casualty insurance received by the Secured Party and applied on the Notes pursuant to Section 5 hereof shall be valid and effectual to satisfy and discharge the liability upon such Notes to the extent of the amounts so received and applied.

7.3. The Register. The Debtor will keep at its principal office a register for the registration and transfer of the Notes (herein called the "Register"). The names and addresses of the holders of the Notes, the transfers of the Notes and the names and addresses of the transferees of all Notes shall be registered in the Register, with copies to be provided by the Debtor to the Secured Party.

7.4. Transfers and Exchanges of Notes; Lost or Mutilated Notes.

(a) The holder of any Note may transfer such Note upon the surrender thereof at the principal corporate office of the Debtor. Thereupon, the Debtor shall execute in the name of the transferee a new Note or Notes in denominations not less than \$50,000 in aggregate principal amount equal to the original principal amount of the Note so surrendered and deliver such new Note or Notes to such transferee.

(b) The holder of any Note or Notes may surrender such Note or Notes at the principal office of the Debtor, accompanied by a written request for a new Note or Notes in the same aggregate principal amount as the then original principal amount of the Note or Notes so surrendered and in denominations of \$50,000 or such amount in excess thereof as may be specified in such request. Thereupon, the Debtor shall execute in the name of such holder a new Note or Notes in the denomination or denominations so requested and in the aggregate principal amount equal to the aggregate unpaid principal amount of the Note or Notes so surrendered and deliver such new Note or Notes to such holder, and shall advise the Secured Party thereof.

(c) All Notes presented or surrendered for exchange or transfer shall be accompanied (if so required by the

Debtor) by a written instrument or instruments of assignment or transfer, in form satisfactory to the Debtor, duly executed by the registered holder or by its attorney duly authorized in writing. The Debtor shall not be required to make a transfer or an exchange of any Note for a period of ten days preceding any installment payment date with respect thereto.

(d) No notarial act shall be necessary for the transfer or exchange of any Note pursuant to this Section 7.4, and the holder of any Note issued as provided in this Section 7.4 shall be entitled to any and all rights and privileges granted under this Security Agreement to a holder of a Note.

(e) In case any Note shall become mutilated or be destroyed, lost or stolen, the Debtor, upon the written request of the holder thereof, shall execute and deliver a new Note in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. The applicant for a substituted Note shall furnish to the Debtor such security or indemnity as may be required by the Debtor to save it harmless from all risks, and the applicant shall also furnish to the Debtor evidence to its satisfaction of the mutilation, destruction, loss or theft of the applicant's Note and of the ownership thereof. In case any Note which has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Debtor may, instead of issuing a substituted Note, pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Note), if the applicant for such payment shall furnish to the Debtor such security or indemnity as the Debtor may require to save it harmless, and shall furnish evidence to the satisfaction of the Debtor of the mutilation, destruction, loss or theft of such Note and the ownership thereof. If the original Note Purchaser, or its nominee, is the owner of any such lost, stolen or destroyed Note, then the affidavit of the president, vice president or treasurer of such Note Purchaser in form reasonably satisfactory to the Debtor setting forth the fact of loss, theft or destruction and of its ownership of the Note at the time of such loss, theft or destruction shall be accepted as satisfactory evidence thereof and no indemnity shall be required as a condition to execution and delivery of a new Note other than the written agreement of such Note Purchaser in form reasonably satisfactory to the Debtor to indemnify the Debtor for any claims or action against it (and for its attorney's fees) resulting from the issuance of such new Note or the reappearance of the old Note.

7.5. The New Notes.

(a) Each new Note (herein, in this Section 7.5, called a "New Note") issued pursuant to Section 7.4(a), (b) or (e) in exchange for or in substitution or in lieu of an outstanding Note (herein, in this Section 7.5, called an "Old Note") shall be dated the date of such Old Note. The Debtor shall mark on each New Note (i) the dates to which principal and interest have been paid on such Old Note, (ii) all payments and prepayments of principal previously made on such Old Note which are allocable to such New Note, and (iii) the amount of each installment payment payable on such New Note. Each installment payment payable on such New Note on any date shall bear the same proportion to the installment payment payable on such Old Note on such date as the original principal amount of such New Note bears to the original aggregate principal amount of such Old Note. Interest shall be deemed to have been paid on such New Note to the date on which interest shall have been paid on such Old Note, and all payments and prepayments of principal marked on such New Note, as provided in clause (ii) above, shall be deemed to have been made thereon.

(b) Upon the issuance of a New Note pursuant to Section 7.4(a), (b) or (e), the Debtor may require the payment of a sum to reimburse it for, or to provide it with funds for, the payment of any tax or other governmental charge or any other charges and expenses connected therewith which are paid or payable by the Debtor.

(c) All New Notes issued pursuant to Section 7.4(a), (b) or (e) in exchange for or in substitution or in lieu of Old Notes shall be valid obligations of the Debtor evidencing the same debt as the Old Notes and shall be entitled to the benefits and security of this Security Agreement to the same extent as the Old Notes.

(d) Upon the issuance of any Note pursuant to this Security Agreement, the Debtor shall deliver to the Secured Party an amortization schedule with respect to such Note setting forth the amount of the installment payments to be made on such Note after the date of issuance thereof and the unpaid principal balance of such Note after each such installment payment. The Secured Party shall deliver, or send by first-class mail, postage prepaid, one copy of the applicable schedule to the holder of such Note at its address set forth in the Register.

7.6. Cancellation of Notes. All Notes surrendered for the purpose of payment, redemption, transfer or exchange shall be delivered to the Debtor for cancellation or, if surrendered to the Debtor, shall be cancelled by it, and no Notes shall be issued in lieu thereof except as expressly required or permitted by any of the provisions of this Security Agreement.

7.7. Registered Owner. The person in whose name any Note shall be registered shall be deemed and treated as the owner thereof for all purposes of this Security Agreement and neither the Debtor nor the Secured Party shall be affected by any notice to the contrary. Payment of or on account of the principal of and interest on such Note shall be made only to or upon the order in writing of such registered owner. For the purpose of any request, direction or consent hereunder, the Debtor and the Secured Party may deem and treat the registered owner of any Note as the owner thereof without production of such Note.

7.8. Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Security Agreement contained by or on behalf of the Debtor or by or on behalf of the Secured Party, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

7.9. Partial Invalidity. The unenforceability or invalidity of any provision or provisions of this Security Agreement shall not render any other provision herein contained unenforceable or invalid, provided that nothing contained in this Section 7.9 shall be construed to be in derogation of any rights or immunities of the Debtor under Section 6 hereof, or to amend or modify any limitations or restrictions of the Secured Party or the holder of any Note or their respective successors or assigns under said Section 6.

7.10. Communications. All communications provided for herein shall be in writing and shall be deemed to have been received (unless otherwise required by the specific provisions hereof in respect of any matter) when delivered personally or five business days after being deposited in the United States mail, registered or certified, return receipt requested, postage prepaid, addressed as follows:

If to the Debtor:	First Commercial Bank
	550 J Street
	Sacramento, California 95803
	Attention: President

If to the Secured  
Party:

New England Mutual Life  
Insurance Company  
501 Boylston Street  
Boston, Massachusetts 02117  
Attention: Private Placement  
Department

If to any other  
holder of Notes:

At its address for notices set  
forth in the Register

or to any such party at such other address as such party may designate by notice duly given in accordance with this Section to the other parties.

7.11. Supplemental Security Agreements; Waivers. (a) Supplemental Security Agreements Without Noteholders' Consent. The Debtor and the Secured Party from time to time and at any time, subject to the restrictions in this Security Agreement contained, may enter into an agreement or agreements supplemental hereto and which thereafter shall form a part hereof for any one or more of the following purposes:

(i) to add to the covenants and agreements to be observed by, and to surrender any right or power reserved to or conferred upon the Debtor or Secured Party;

(ii) to subject to the security interest of this Security Agreement additional property hereafter acquired by the Debtor and intended to be subjected to the security interest of this Security Agreement, and to correct and amplify the description of any property subject to the security interest of this Security Agreement;

(iii) to permit the qualification of this Security Agreement under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect, except that nothing herein contained shall permit or authorize the inclusion of the provisions referred to in Section 316(a)(2) of said Trust Indenture Act of 1939 or any corresponding provision in any similar Federal statute hereafter in effect; or

(iv) for any other purpose not inconsistent with the terms of this Security Agreement, or to cure any ambiguity or cure, correct or supplement any defect or inconsistent provisions of this Security Agreement or any supplement;

and the Debtor covenants to perform all requirements of any such supplemental agreement. No restriction or obligation imposed upon the Debtor may, except as otherwise provided in this Security Agreement, be waived or modified by such supplemental agreements, or otherwise.

(b) Waivers and Consents by Noteholders; Supplemental Security Agreements with Noteholders' Consent. Upon the waiver or consent of the holders of at least 66-2/3% in aggregate principal amount of the Notes (x) the Debtor may take any action prohibited, or omit the taking of any action required, by any of the provisions of this Security Agreement or any agreement supplemental hereto, or (y) the Debtor and the Secured Party may enter into an agreement or agreements supplemental hereto for the purpose of adding, changing or eliminating any provisions of this Security Agreement or of any agreement supplemental hereto or modifying in any manner the rights and obligations of the holders of the Notes and the Debtor; provided, that no such waiver or supplemental agreement shall (i) impair or affect the right of any holder to receive payments or prepayments of the principal of and payments of the interest on its Note, as therein and herein provided, without the consent of such holder, (ii) permit the creation of any lien or security interest with respect to any of the Collateral, without the consent of the holders of all the Notes at the time outstanding, (iii) effect the deprivation of the holder of any Note of the benefit of the security interest of this Security Agreement upon all or any part of the Collateral without the consent of such holder, (iv) reduce the aforesaid percentage of the aggregate principal amount of Notes, the holders of which are required to consent to any such waiver or supplemental agreement pursuant to this Section, without the consent of the holders of all of the Notes at the time outstanding, or (v) modify the rights, duties or immunities of the Secured Party, without the consent of the holders of all of the Notes at the time outstanding.

(c) Notice of Supplemental Security Agreements. Promptly after the execution by the Debtor and the Secured Party of any supplemental agreement pursuant to the provisions of paragraph (a) or (b) of this Section, the Secured Party shall give written notice, setting forth in general terms the substance of such supplemental agreement, together with a conformed copy thereof, mailed, first-class, postage prepaid, registered or certified with return receipt requested, to each holder of the Notes. Any failure of the Secured Party to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental agreement.

7.12. Amendments. Subject to the provisions of Section 7.11 hereof, this Security Agreement may, from time to time and at any time, be amended or supplemented by an instrument or instruments in writing executed by the parties hereto.

7.13. Release. The Secured Party shall promptly release this Security Agreement and the lien and security interest granted hereby by proper instrument or instruments upon presentation of satisfactory evidence that all indebtedness secured hereby has been fully paid or discharged.

7.14. Governing Law. This Security Agreement and the Notes shall be construed in accordance with and governed by the laws of the State of California; provided, however, that the Secured Party shall be entitled to all the rights conferred by any applicable Federal statute, rule or regulation.

7.15. Counterparts. This Security Agreement may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Security Agreement.

7.16. Headings. Any headings or captions preceding the text of the several sections hereof are intended solely for convenience of reference and shall not constitute a part of this Security Agreement nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the Debtor has caused this Security Agreement to be executed, as of the day and year first above written.

FIRST COMMERCIAL BANK

By   
Its Executive Vice President

NEW ENGLAND MUTUAL LIFE  
INSURANCE COMPANY

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF SACRAMENTO )

On this 11th day of April, 1986, before me personally appeared Les E. Scott, to me personally known, who being by me duly sworn, says that (s)he is the Executive Vice President of FIRST COMMERCIAL BANK, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Shirley D. Nelson*  
Notary Public



(SEAL)

My commission expires: *May 19, 1986*

COMMONWEALTH OF MASSACHUSETTS )  
 ) SS  
COUNTY OF SUFFOLK )

On this \_\_\_ day of April, 1986, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_, to me personally known, who being by me duly sworn, says that they are the \_\_\_\_\_ and \_\_\_\_\_, respectively, of NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, that said instrument was signed 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.

\_\_\_\_\_  
Notary Public

(SEAL)

My commission expires:

IN WITNESS WHEREOF, the Debtor has caused this Security Agreement to be executed, as of the day and year first above written.

FIRST COMMERCIAL BANK

By \_\_\_\_\_  
Its \_\_\_\_\_

NEW ENGLAND MUTUAL LIFE  
INSURANCE COMPANY

By Charles A. Morss, Jr.  
Its \_\_\_\_\_

CHARLES A. MORSS, JR.  
VICE PRESIDENT

STATE OF CALIFORNIA        )  
                                  ) SS  
COUNTY OF SACRAMENTO    )

On this \_\_\_\_\_ day of April, 1986, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, says that (s)he is the \_\_\_\_\_ of FIRST COMMERCIAL BANK, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

(SEAL)

My commission expires:

COMMONWEALTH OF MASSACHUSETTS )  
  ) SS  
COUNTY OF SUFFOLK                 )

On this 11<sup>th</sup> day of April, 1986, before me personally appeared Charles A. MORSS and \_\_\_\_\_, to me personally known, who being by me duly sworn, says that they are the Vice President and \_\_\_\_\_, respectively, of NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, that said instrument was signed 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.

Danielle M. Sousa  
Notary Public

(SEAL)

My commission expires:

DANIELLE M. SOUSA  
NOTARY PUBLIC  
Commonwealth of Massachusetts  
My Commission Expires October 30, 1992

AMORTIZATION SCHEDULE

(Payments Required per \$1,000,000.00 Principal Amount  
of 10% Secured Notes Issued by Debtor)

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<u>Installment Payment Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>	<u>Principal Balance</u>
July 31, 1986	\$24,136.82	\$29,444.44	\$53,581.26	\$975,863.18
January 31, 1987	25,343.66	48,793.16	74,136.82	950,519.52
July 31, 1987	26,610.84	47,525.98	74,136.82	923,908.68
January 31, 1988	27,941.39	46,195.43	74,136.82	895,967.29
July 31, 1988	29,338.46	44,798.36	74,136.82	866,628.83
January 31, 1989	30,805.38	43,331.44	74,136.82	835,823.45
July 31, 1989	32,345.65	41,791.17	74,136.82	803,477.80
January 31, 1990	33,962.93	40,173.89	74,136.82	769,514.87
July 31, 1990	35,661.08	38,475.74	74,136.82	733,853.79
January 31, 1991	37,444.13	36,692.69	74,136.82	696,409.66
July 31, 1991	39,316.34	34,820.48	74,136.82	657,093.32
January 31, 1992	41,282.15	32,854.67	74,136.82	615,811.17
July 31, 1992	43,346.26	30,790.56	74,136.82	572,464.91
January 31, 1993	45,513.57	28,623.25	74,136.82	526,951.34
July 31, 1993	47,789.25	26,347.57	74,136.82	479,162.09
January 31, 1994	50,178.72	23,958.10	74,136.82	428,983.37
July 31, 1994	52,687.65	21,449.17	74,136.82	376,295.72
January 31, 1995	55,322.03	18,814.79	74,136.82	320,973.69
July 31, 1995	58,088.14	16,048.68	74,136.82	262,885.55
January 31, 1996	60,992.54	13,144.28	74,136.82	201,893.01
July 31, 1996	64,042.17	10,094.65	74,136.82	137,850.84
January 31, 1997	67,244.28	6,892.54	74,136.82	70,606.56
July 31, 1997	70,606.56	3,530.33	74,136.89	0.00

DESCRIPTION OF EQUIPMENT

Sixty (60), 100-ton, 4750 cubic foot covered hopper cars, Thrall Job No. 790-D with design changes to conform to Specification HC-100-47-224, manufactured by Thrall Car Manufacturing Company and bearing reporting marks and nos. as follows:

PCN 5104	RUSX 5105	AN 9010	BXN 5168
PCN 5109	RUSX 5106	AN 9011	BXN 5219
PCN 5115	RUSX 5108		BXN 5223
PCN 5140	RUSX 5126		BXN 5224
PCN 5141	RUSX 5127		
PCN 5149	RUSX 5128		
PCN 5162	RUSX 5129		
PCN 5163	RUSX 5130		
PCN 5164	RUSX 5131		
PCN 5165	RUSX 5132		
PCN 5166	RUSX 5133		
PCN 5167	RUSX 5134		
PCN 5169	RUSX 5135		
PCN 5170	RUSX 5136		
PCN 5192			
PCN 5202			
PCN 5203			
PCN 5204			
PCN 5205			
PCN 5206			
PCN 5207			
PCN 5208			
PCN 5209			
PCN 5210			
PCN 5211			
PCN 5212			
PCN 5213			
PCN 5214			
PCN 5215			
PCN 5216			
PCN 5217			
PCN 5220			
PCN 5221			
PCN 5222			
PCN 5225			
PCN 5226			
PCN 5228			
PCN 5230			
PCN 5231			
PCN 5233			

SCHEDULE 2  
(to Security Agreement)

FIRST COMMERCIAL BANK

10% SECURED NOTE

No. R-

\$

, 19

FOR VALUE RECEIVED, the undersigned, FIRST COMMERCIAL BANK, a California corporation (the "Debtor") promises to pay to

or registered assigns,  
the principal sum of

DOLLARS (\$ )

together with interest from the date hereof until maturity at the rate of 10% per annum (computed on the basis of a 360-day year of twelve consecutive 30-day months) on the unpaid principal hereof, in installments as follows:

(i) twenty-two (22) installments of principal and interest, in the respective amounts set forth in the amortization schedule attached hereto, payable on July 31, 1986 and on the thirty-first day of each January and July thereafter to and including January 31, 1997; followed by

(ii) A final installment on July 31, 1997 in the amount equal to the entire principal and interest remaining unpaid hereunder as of said date;

and to pay interest on overdue principal and (to the extent legally enforceable) on overdue interest at the rate of 11% per annum after maturity, whether by acceleration or otherwise, until paid. Both the principal hereof and interest hereon are payable to the registered holder hereof in coin or currency of the United States of America which at the time of payment shall be legal tender for the payment of public and private debts.

This Note is one of the 10% Secured Notes of the Debtor not exceeding \$1,462,150.28 in aggregate principal amount (the "Notes") issued under and pursuant to the Term Financing Participation Agreement dated as of March 1, 1986 among the Debtor, United States Lease Financing, Inc., United States Rail Services, Inc. (the "Lessee"), and New England Mutual Life

EXHIBIT A  
(to Security Agreement)

Insurance Company (the "Secured Party") and also issued under and equally and ratably with said other Notes secured by that certain Security Agreement dated as of March 1, 1986 (the "Security Agreement") from the Debtor to the Secured Party. Reference is made to the Security Agreement and all supplements and amendments thereto executed pursuant to the Security Agreement for a description of the collateral, the nature and extent of the security and rights of the Secured Party, the holder or holders of the Notes and of the Debtor in respect thereof.

Certain prepayments are required to be made on this Note and any other Notes outstanding under the Security Agreement. The Debtor agrees to make the required prepayments on the Notes in accordance with the provisions of the Security Agreement.

The terms and provisions of the Security Agreement and the rights and obligations of the Secured Party and the rights of the holders of the Notes may be changed and modified to the extent permitted by and as provided in the Security Agreement.

This Note is a registered Note and is transferable only by surrender thereof at the principal office of the Debtor, duly endorsed or accompanied by a written instrument of transfer, duly executed by the registered holder of this Note or his attorney duly authorized in writing.

This Note and the Security Agreement are governed by and construed in accordance with the laws of the State of California.

Anything in this Note to the contrary notwithstanding, neither the Secured Party nor any holder hereof, nor their respective successors or assigns shall have any claim, remedy or right to proceed (at law or in equity) against the Debtor in its individual corporate capacity or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer, or director of the Debtor (except against the Debtor in the case of the gross negligence or willful misconduct of the Debtor) for the payment of any deficiency or any other sum owing on account of the indebtedness evidenced by this Note or for the payment of any liability resulting from the breach of any representation, agreement or warranty of any nature whatsoever (except as hereinafter set forth in this paragraph), from any source other than the collateral under the Security Agreement (the "Collateral"); and the Secured Party and the holder of this Note by its acceptance hereof waive and release any personal liability of the Debtor in its individual corporate capacity, and any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor (except against the Debtor in the case of the gross negligence or willful misconduct of the Debtor) for and on account of such indebtedness or such liability; and the Secured Party and the holder of this Note agree to look solely to the Collateral for the

payment of said indebtedness or the satisfaction of such liability; provided, however, nothing herein contained shall limit, restrict or impair the rights of the Secured Party to accelerate the maturity of this Note upon a default thereunder, to bring suit and obtain a judgment against the Debtor on this Note (provided that neither the Debtor nor any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor, shall have any personal liability on such judgment and the satisfaction thereof shall be limited to the Collateral, including any interest therein of the Debtor) or to exercise all rights and remedies provided under the Security Agreement or otherwise realize upon the Collateral; provided, further, that nothing in this paragraph shall be construed to limit in scope or substance those representations and warranties of the Debtor in its individual corporate capacity (but not any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor) set forth in Section 3.1 of the Term Financing Participation Agreement or the warranty and agreement of the Debtor set forth in Section 2.2 of the Security Agreement, for all of which the Debtor shall remain personally liable. In no event shall any act or omission be deemed the gross negligence or willful misconduct of the Debtor if such act or omission shall arise out of or in connection with the failure of the Lessee to perform its obligations under the Lease, the Term Financing Participation Agreement or the Interim Participation Agreement (as each such term is defined in the Security Agreement).

IN WITNESS WHEREOF, the Debtor has caused this Note to be duly executed.

FIRST COMMERCIAL BANK

By \_\_\_\_\_  
Its \_\_\_\_\_

NOTICE

THIS NOTE HAS NOT BEEN REGISTERED PURSUANT TO THE SECURITIES ACT OF 1933 OR UNDER THE SECURITIES LAWS OF ANY STATE. THIS NOTE MAY NOT BE OFFERED OR SOLD UNLESS IT IS REGISTERED UNDER THE APPLICABLE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

AMORTIZATION SCHEDULE

(Payments Required per \$1,462,150.28 Principal Amount  
of 10% Secured Notes Issued by Debtor)

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<u>Installment Payment Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>	<u>Principal Balance</u>
July 31, 1986	\$35,291.73	\$43,052.20	\$ 78,343.93 <sup>3</sup>	\$1,426,858.55
January 31, 1987	37,056.24	71,342.93	108,399.17	1,389,802.31
July 31, 1987	38,909.05	69,490.12	108,399.17	1,350,893.26
January 31, 1988	40,854.51	67,544.66	108,399.17	1,310,038.75
July 31, 1988	42,897.23	65,501.94	108,399.17	1,267,141.52
January 31, 1989	45,042.09	63,357.08	108,399.17	1,222,099.43
July 31, 1989	47,294.20	61,104.97	108,399.17	1,174,805.23
January 31, 1990	49,658.91	58,740.26	108,399.17	1,125,146.32
July 31, 1990	52,141.85	56,257.32	108,399.17	1,073,004.47
January 31, 1991	54,748.95	53,650.22	108,399.17	1,018,255.52
July 31, 1991	57,486.39	50,912.78	108,399.17	960,769.13
January 31, 1992	60,360.71	48,038.46	108,399.17	900,408.42
July 31, 1992	63,378.75	45,020.42	108,399.17	837,029.67
January 31, 1993	66,547.69	41,851.48	108,399.17	770,481.98
July 31, 1993	69,875.07	38,524.10	108,399.17	700,606.91
January 31, 1994	73,368.82	35,030.35	108,399.17	627,238.09
July 31, 1994	77,037.27	31,361.90	108,399.17	550,200.82
January 31, 1995	80,899.13	27,510.04	108,399.17	469,311.69
July 31, 1995	84,933.59	23,465.58	108,399.17	384,378.10
January 31, 1996	89,180.26	19,218.91	108,399.17	295,197.84
July 31, 1996	93,639.28	14,759.89	108,399.17	201,558.56
January 31, 1997	98,321.24	10,077.93	108,399.17	103,237.32
July 31, 1997	103,237.32	5,161.87	108,399.19	0.00