

OBER, KALER, GRIMES & SHRIVER

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1600 MARYLAND NATIONAL BANK BUILDING

10 LIGHT STREET

BALTIMORE, MARYLAND 21202

(301) 685-1120

TELECOPIER (301) 547-0617

CABLE "RITNEY"

TELEX 8-7774

INTERSTATE COMMERCE COMMISSION

FEB 18 1988 3-4 5 PM

RECORDATION NO. 1 5502 1425

OFFICES IN  
WASHINGTON, D. C.  
NEW YORK  
NEW JERSEY

ALAN J. MOGOL  
DIRECT DIAL NUMBER  
(301) 347-7332

February 18, 1988

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

8-049A034

No.

Date FEB 18 1988

Fee \$ 13.00

ICC Washington, D.C.

ICC OFFICE OF  
THE SECRETARY  
FEB 18 3 42 PM '88  
MOTOR OPERATING UNIT

Dear Mr. Secretary:

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

This document is a lease, a primary document, dated  
as of February 16, 1988.

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

Lessor: Maryland National Leasing Corporation  
502 Washington Avenue  
Towson, Maryland 21204

changed to MNC Leasing Corporation

Lessee: Consolidated Grain and Barge Company  
5100 Oakland Avenue  
St. Louis, Missouri 63110

A description of the equipment covered by the document  
follows: sixty-three (63) covered hopper cars, more fully  
described on the attached schedule, bearing the road numbers  
described on the attached schedule. Such equipment also  
bears the following legend: "MARYLAND NATIONAL LEASING CORPORATION,  
OWNER AND LESSOR UNDER AN INSTRUMENT OF LEASE FILED UNDER  
SECTION 11303 OF THE INTERSTATE COMMERCE ACT."

A fee of \$50.00 is enclosed. Please return the original  
and any extra counterparts not needed by the Commission for  
recordation to: Alan J. Mogol, Esquire; Ober, Kaler, Grimes  
& Shriver; 1600 Maryland National Bank Building; Baltimore,  
Maryland 21202.

A short summary of the document to appear in the index  
follows: Equipment Lease Agreement between Maryland National  
Leasing Corporation, as lessor, 502 Washington Avenue, Towson,  
Maryland 21204, and Consolidated Grain and Barge Company, as

Robert W Cobb  
Counterpart

OBER, KALER, GRIMES & SHRIVER

Secretary, Interstate Commerce Commission  
February 18, 1988  
Page Two

lessee, 5100 Oakland Avenue, St. Louis, Missouri 63110, dated  
as of February 16, 1988, and covering sixty-three (63) covered  
hopper cars.

Sincerely yours,

Handwritten signature of Alan J. Mogol in cursive script, followed by the initials "AJM".

Alan J. Mogol  
Attorney for Maryland National  
Leasing Corporation

AJM:caa  
Enclosure

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

OFFICE OF THE SECRETARY

Alan J. Mogol, Esq.  
Ober, Kaler, Grimes & Shriver  
1600 Maryland National Bank Bldg.  
Baltimore, MD 21202

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 2/18/88 at 3:45PM, and assigned recordation number(s) 15507

Sincerely yours,

*Norita L. McGee*

Secretary

Enclosure(s)



# Maryland National Leasing Corporation

## SCHEDULE OF EQUIPMENT

Lessee: Consolidated Grain and Barge Company

Approved by REU  
(Lessee to initial each page)

Page No. 1 of 1 total pages

Attached to Bill of Sale dated \_\_\_\_\_, 19\_\_\_\_  
and/or  
Equipment Schedule No. 1

Equipment located at:  
Washington and Water Streets  
Street No.  
Wayne City, Fairfield, IL 62895  
City County State Zip

Manufacturer and/or Vendor Name & Invoice No.	Description	Invoice Cost																																																																		
Helm Financial Corporation Bill of Sale dated: February 18, 1988	63 - 1975 Pullman Mfg. Co. 100 Ton, Roller Bearing, 4,750 cubic foot covered hopper railcars with the following Road Numbers: c	\$ 894,600.00																																																																		
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INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE AGREEMENT

FEB 18 1988 3-4 5 PM

RECORDATION NO. 1 5507 1425

THIS EQUIPMENT LEASE AGREEMENT is made as of the 16th day of February, 1988, by and between MARYLAND NATIONAL LEASING CORPORATION ("Lessor") and CONSOLIDATED GRAIN AND BARGE COMPANY ("Lessee"). *Changed to MNC Equip Corp*

The parties agree that Lessee shall lease from Lessor, the property, together with all components, parts, additions, accessions and attachments incorporated therein (collectively referred to as the "Equipment") described in the (Equipment Schedule(s) to be executed pursuant hereto (collectively referred to as the "Equipment Schedule"), subject to the terms and conditions set forth in the Equipment Schedule and also set forth herein.

This Lease is made upon the following terms and conditions:

1. TERM. The term of this Lease with respect to any item of the Equipment shall consist of the term set forth in the Equipment Schedule relating thereto; provided, however, that this Lease shall be effective from and after the date of execution hereof.

2. RENT. Lessee shall pay Lessor rent for the Equipment, without any deduction or setoff and without prior notice or demand, the aggregate amounts specified in the Equipment Schedule relating thereto. This Lease is a net lease, and Lessee shall not be entitled to any abatement or reduction of payments due hereunder for any reason. Lessee hereby waives any and all existing or future claims to any offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by Lessee.

Rent is payable as and when specified in the Equipment Schedule by mailing the same to Lessor at its specified address or, at Lessor's sole option upon written notice thereof to Lessee, by wire transfer of immediately available funds to Lessor's account number 5012869 at Maryland National Bank, Baltimore, Maryland; and shall be effective upon receipt. Payments may be applied by Lessor at any time against any obligation due and owing by Lessee under this Lease (in Lessor's sole discretion) notwithstanding any statement appearing on or referred to in any remittance from Lessee. If proceedings under Federal bankruptcy laws or state insolvency laws are instituted by or against Lessee within ninety (90) days after receipt of a payment, the payment shall be deemed applicable to the unpaid obligation then due hereunder in inverse order of maturity.

Time is of the essence. If any payment due hereunder is not paid on the due date, Lessor may collect, and Lessee agrees to pay, a charge calculated as the product of the late charge rate specified in the Equipment Schedule (the "Late Charge Rate") and

the amount in arrears for the period such amount remains unpaid (or such lesser amount as may be permitted by law).

3. LESSEE'S REPRESENTATIONS AND WARRANTIES. Lessee represents and warrants that:

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

(b) The execution, delivery and performance of this Lease, the Equipment Schedule, and all related instruments and documents, (i) have been duly authorized by all necessary corporate action on the part of Lessee; (ii) do not require the consent of any stockholder, trustee or holders of any indebtedness of Lessee except such as have been duly obtained; and (iii) do not and will not contravene any law, governmental rule, regulation or order now binding on Lessee, or the charter or by-laws of Lessee, or contravene the provisions of, or constitute a default under, or result in the creation of any lien or encumbrance upon the property of Lessee under, any indenture, mortgage, contract or other agreement to which Lessee is a party or by which it or its property is bound.

(c) Neither the execution and delivery by Lessee of this Lease and all related instruments and documents, nor the consummation of any of the transactions by Lessee contemplated hereby or thereby, requires the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any Federal, state or foreign governmental authority or agency, except as provided herein.

(d) This Lease and all related instruments and documents, when entered into, will constitute legal, valid and binding obligations of Lessee enforceable against Lessee in accordance with the terms thereof.

(e) There are no pending actions or proceedings to which Lessee is a party, and there are no other pending or threatened actions or proceedings of which Lessee has knowledge, before any court, arbitrator or administrative agency, and there are no final judgments of record against Lessee of which Lessee has knowledge, which, either individually or in the aggregate, would materially adversely affect the financial condition of Lessee, or the ability of Lessee to perform its obligations hereunder. Further, Lessee is not in default under any material obligation for the payment of borrowed money, for the deferred purchase price of property or for the payment of any rent which, either individually or in the aggregate, would have the same such effect.

(f) The financial statements of Lessee (copies of which have been furnished to Lessor) have been prepared in accordance with generally accepted accounting principles consistently

applied ("GAAP"), and accurately and completely present Lessee's financial condition and the results of its operations as of the date of and for the period covered by such statements, and since the date of such statements there has been no material adverse change in such conditions or operations.

(g) The address stated below the signature of Lessee is the chief place of business and chief executive office of Lessee; and Lessee does not conduct business under a trade, assumed or fictitious name.

4. COVENANTS OF LESSEE. Lessee covenants and agrees as follows:

(a) Lessee will furnish Lessor (i) within one hundred twenty (120) days after the end of each fiscal year of Lessee, a balance sheet of Lessee as at the end of such year, and the related earnings statement, prepared in accordance with GAAP, all in reasonable detail and certified by independent certified public accountants of recognized standing selected by Lessee; and (ii) within sixty (60) days after the end of each quarter of Lessee's fiscal year, a balance sheet of Lessee as at the end of such quarter, and the related earnings statement, prepared in accordance with GAAP; and (iii) within thirty (30) days after the date on which they are filed, all regular periodic reports, forms and other filings required to be made by Lessee to the Securities and Exchange Commission, if any.

(b) Lessee promptly will execute and deliver to Lessor such further documents, instruments and assurances and take such further action as Lessor from time to time reasonably requests to carry out the intent and purpose of this Lease and to establish and protect the rights and remedies intended to be created in favor of Lessor hereunder.

(c) Lessee shall provide written notice to Lessor of the commencement of proceedings under the Federal bankruptcy laws or other insolvency laws (as now or hereafter in effect) involving Lessee as a debtor.

5. AUTHORIZATION AND CERTIFICATION. Lessor's obligations hereunder are conditioned upon Lessor having received the following, in form and substance satisfactory to Lessor:

(a) Certificate of the Secretary or an Assistant Secretary of Lessee certifying: (1) resolutions of the Board of Directors or validly authorized Executive Committee of Lessee duly authorizing the leasing of the Equipment hereunder and the execution, delivery and performance of this Lease, the Equipment Schedule and all related instruments and documents; and (2) the incumbency and signature of the officers of Lessee authorized to execute such documents.

(b) Evidence as to due compliance with the insurance provisions hereof.

(c) An opinion of counsel for Lessee as to each of the matters set forth in sub-parts (a) through (e) of Section 3 hereof.

(d) Such documents and instruments as reasonably may be required by Lessor with respect to Lessor's acquisition of, and title to, the Equipment; and with respect to the submission of all required filings to the Association of American Railroads.

(e) Such documents as reasonably may be required by Lessor to cause the recording of this Lease under Section 11303 of the Interstate Commerce Act (the "Act").

6. ACCEPTANCE BY LESSEE. Lessee shall execute and deliver to Lessor an Equipment Schedule containing a complete description of the Equipment; whereupon, as between Lessor and Lessee, the same shall be deemed to have been finally accepted by Lessee pursuant to this Lease and said Equipment Schedule.

7. IDENTIFICATION OF EQUIPMENT. Lessee will cause each covered hopper car comprising a portion of the Equipment to be continually marked, in a plain and distinct manner, with the road number assigned to the car (as specified on the Equipment Schedule) and, in letters not less than one inch in height, with the name of Lessor followed by the words "Owner and Lessor under an instrument of lease filed under Section 11303 of the Interstate Commerce Act." Lessee will not place any item of the Equipment in operation until such number, name and words shall have been so marked thereon and will replace promptly any such name or words which may be removed, defaced or destroyed. Lessee will not allow the name of any person or entity other than that of Lessor to be placed on any item of the Equipment in a manner which might be interpreted as a claim of ownership (provided that Lessee may place its name or logo on the Equipment).

8. USE AND MAINTENANCE. Lessee shall use the Equipment solely in the conduct of its business and in a careful and proper manner consistent with the requirements of all applicable insurance policies, and in compliance with any and all statutes, laws, ordinances and regulations of any governmental agency applicable to the use thereof, and Lessee agrees to prepare and deliver to Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of Lessor) any and all reports (other than income tax returns) required to be filed by Lessor with any Federal, state or other regulatory authority by reason of the ownership by Lessor of the Equipment or the leasing thereof to Lessee. Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the Interchange Rules of

the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment. To the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any item of Equipment, Lessee will conform therewith at its own expense; provided, however, that Lessee may at its own expense, 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 Lessor, adversely affect the property or rights of Lessor under this Lease. Lessee shall not discontinue use of the Equipment during the term of this Lease. Lessee shall not attach or incorporate the Equipment to or in any other item of equipment in such a manner that the Equipment becomes or may be deemed to have become an accession to or a part of such other item of equipment.

Lessee shall be entitled to the use of the Equipment upon lines of railroads owned or operated by it or any affiliate of Lessee or upon lines of railroads over which Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of Lessee or any such affiliate is operated pursuant to contract or otherwise, and Lessee shall be entitled to permit the use of the Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements. So long as no Default shall have occurred and be continuing, Lessee may receive and retain compensation for the use of any of the Equipment from railroads or other entities so using such Equipment.

At its own expense, Lessee will cause the Equipment to be kept and maintained as recommended by the manufacturer and in as good operating condition as when delivered to Lessee hereunder, ordinary wear and tear resulting from proper use alone excepted, and to keep it in compliance with the Interchange Rules of the Association of American Railroads and in the same condition as other similar equipment owned or leased by Lessee. Lessee will provide all maintenance and service and make all repairs or replacements reasonably necessary for such purpose.

If any parts or accessories forming part of the Equipment become worn out, lost, destroyed, damaged beyond repair or otherwise permanently rendered unfit for use, Lessee, at its own expense, will within a reasonable time cause such parts or accessories to be replaced by replacement parts or accessories which are free and clear of all liens, encumbrances or rights of others and have a value and utility at least equal to the parts or accessories replaced. All equipment, accessories, parts and replacements for or which are added to or become attached to the Equipment which are essential to the operation of the Equipment; or which are required for the operation or use of the Equipment

by the Interchange Rules of the Association of American Railroads, the United States Department of Transportation, the Interstate Commerce Commission or any other legislative, executive, administrative or judicial body exercising jurisdiction over the Equipment; or which cannot be detached from the Equipment without materially interfering with the operation of the Equipment or adversely affecting the value and utility which the Equipment would have had without the addition thereof, shall immediately become the property of Lessor, and shall be deemed incorporated in the Equipment and subject to the terms of this Lease as if originally leased hereunder. Lessee shall not make any material alterations to the Equipment without the prior written consent of Lessor, which consent shall not be unreasonably withheld.

Upon reasonable advance notice, Lessor shall have the right to inspect the Equipment and all maintenance records with respect thereto, if any, at any reasonable time during normal business hours.

9. DISCLAIMER OF WARRANTIES. LESSOR, NOT BEING A SELLER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS ENACTED IN THE STATE OF MARYLAND), NOR A SELLER'S AGENT, EXPRESSLY DISCLAIMS AND MAKES TO LESSEE NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO: THE FITNESS FOR USE, DESIGN OR CONDITION OF THE EQUIPMENT; THE QUALITY OR CAPACITY OF THE EQUIPMENT; THE WORKMANSHIP IN THE EQUIPMENT; THAT THE EQUIPMENT WILL SATISFY THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO; AND ANY GUARANTY OR WARRANTY AGAINST PATENT INFRINGEMENT OR LATENT DEFECTS, it being agreed that all such risks, as between Lessor and Lessee, are to be borne by Lessee. Lessor is not responsible or liable for any direct, indirect, incidental or consequential damage to or losses resulting from the installation, operation or use of the Equipment or any products manufactured thereby. All assignable warranties made by the manufacturer or supplier to Lessor are hereby assigned to Lessee for and during the term of this Lease and Lessee agrees to resolve all such claims directly with the manufacturer or supplier. Provided that Lessee is not then in Default (as hereinafter defined) hereunder, Lessor shall cooperate fully with Lessee with respect to the resolution of such claims, in good faith and by appropriate proceedings at Lessee's expense. Any such claim shall not affect in any manner the unconditional obligation of Lessee to make rent payments hereunder.

#### 10. FEES AND TAXES.

(a) To the extent permitted by law, Lessee shall file any necessary report and return for, shall pay promptly when due, shall otherwise be liable to reimburse Lessor on an after-tax basis) for, and agrees to indemnify and hold Lessor harmless from: (i) all titling, recordation, documentary stamp and other

fees; (ii) taxes (other than taxes calculated solely on the basis of net income), including but not limited to sales, use and personal property taxes; and; (iii) assessments and all other charges or withholdings of any nature (together with any penalties, fines or interest thereon); arising at any time upon or relating to the Equipment or this Lease or with respect to the acquisition, ownership, use, operation, leasing, delivery, return or other disposition of the Equipment, or upon the rentals payable hereunder, whether the same be assessed to Lessor or Lessee.

(b) If any report or return for, or property listing in connection with, or any, fee, tax or assessment described in subpart (a) hereof ("Imposition") is, by law, required to be filed by, assessed or billed to, or paid by, Lessor, Lessee at its own expense will do any and all things required to be done by Lessor (to the extent permitted by law) in connection therewith and is hereby authorized by Lessor to act on behalf of Lessor in any and all respects, including (but not limited to), after obtaining the prior written consent of Lessor (which shall not be unreasonably withheld), the contest or protest, in good faith and by appropriate proceedings, of the validity of any Imposition or the amount thereof. Lessor agrees fully to cooperate with Lessee in any such contest, and Lessee agrees promptly to indemnify Lessor for all reasonable expenses incurred by Lessor in the course of such cooperation. A claim for an Imposition shall be paid, subject to refund proceedings, if failure to pay would adversely affect the title or rights of Lessor hereunder. Provided that Lessee is not then in Default, if Lessor shall obtain a refund of any such Imposition which has been paid (by Lessee, or by Lessor and for which Lessor has been reimbursed by Lessee), Lessor shall promptly pay such refund to Lessee.

Lessee will cause all billings of such charges to Lessor to be made to Lessor in care of Lessee and will, in preparing any report or return required by law, show the ownership of the Equipment in Lessor, and shall send a copy of any such report or return to Lessor.

If Lessee fails to pay any such charges when due, except any Imposition being contested in good faith and by appropriate proceedings as above provided for a reasonable period of time, Lessor at its option may do so, in which event the amount so paid (including any penalty or interest incurred as a result of Lessee's failure), plus interest thereon at the Late Charge Rate, shall be paid by Lessee to Lessor with the next periodic payment of rent.

11. INTENT; TITLE. It is the express intent of the parties that this agreement constitute a true lease and in no event shall this agreement be construed as a sale of the Equipment. Title to the Equipment shall at all times remain in Lessor, and Lessee shall acquire no ownership, title, property, right, equity, or

interest in the Equipment other than its leasehold interest solely as Lessee subject to all the terms and conditions hereof.

Notwithstanding the express intent of the parties, should a court of competent jurisdiction determine that this agreement is not a true lease, but rather one intended as security, then solely in that event and for the expressly limited purposes thereof, Lessee shall be deemed to have hereby granted Lessor a security interest in this Lease, the Equipment, and all accessions thereto, substitutions and replacements therefor, and proceeds (including insurance proceeds) thereof (but without the power of Lessee to dispose of the Equipment); to secure the prompt payment and performance as and when due of all obligations and indebtedness of Lessee (or any affiliate of Lessee) to Lessor, now existing or hereafter created.

The parties intend and agree that the Equipment shall remain personal property, notwithstanding the manner in which it may be affixed to any real property. Lessee agrees to maintain the Equipment free from all claims, liens and legal processes of creditors of Lessee other than liens (a) for fees, taxes, levies, duties or other governmental charges of any kind, liens of mechanics, materialmen, laborers, employees or suppliers and similar liens arising by operation of law incurred by Lessee in the ordinary course of business for sums that are not yet delinquent or are being contested in good faith by negotiations or by appropriate proceedings which suspend the collection thereof (provided, however, that such proceedings do not involve any substantial danger of the sale, forfeiture or loss of the Equipment or any interest therein); and (b) liens arising out of any judgments or awards against Lessee which have been adequately bonded to protect Lessor's interests or with respect to which a stay of execution has been obtained pending an appeal or a proceeding for review. Lessee will defend, at its own expense, Lessor's title to the Equipment from such claims, liens or legal processes. Lessee shall also notify Lessor immediately upon receipt of notice of any lien, attachment or judicial proceeding affecting the Equipment in whole or in part.

12. INSURANCE. Lessee shall keep the Equipment insured against loss or damage due to fire and the risks normally included in extended coverage, malicious mischief and vandalism, for not less than the greater of the full replacement value or the Stipulated Loss Value (as defined in Section 13 hereof); and Lessee shall also carry public liability insurance, both personal injury and property damage, covering the Equipment, with a combined single limit of not less than Ten Million Dollars (\$10,000,000.00) per occurrence. All said insurance shall be in form and amount and with companies reasonably satisfactory to Lessor. All insurance for loss or damage shall provide that losses shall be payable to Lessor and Lessee, as their interests may appear, and Lessee shall utilize its best efforts to have all checks relating to any such losses delivered promptly to Lessor. Lessor shall be named as an additional insured with

respect to all such liability insurance. Lessee shall pay the premiums therefor and deliver to Lessor evidence satisfactory to Lessor of such insurance coverage. Lessee shall cause to be provided to Lessor, not less than fifteen (15) days prior to the scheduled expiration or lapse of such insurance coverage, evidence satisfactory to Lessor of renewal or replacement coverage. Each insurer shall agree, by endorsement upon the policy or by independent instrument furnished to Lessor, that (a) it will give Lessor thirty (30) days' prior written notice of the effective date of any material alteration or cancellation of such policy; and (b) insurance as to the interest of any named additional insured or loss payee other than Lessee shall not be invalidated by any actions, inactions, breach of warranty or conditions or negligence of Lessee with respect to such policy or policies. The proceeds of such insurance payable as a result of loss of or damage to the Equipment shall be applied as required by the provisions of Section 13 hereof.

13. LOSS AND DAMAGE. Lessee assumes the entire risk of direct and consequential loss and damage to the Equipment from all causes. Except as provided in this Section for discharge upon payment of Stipulated Loss Value, no loss or damage to the Equipment or any part thereof shall release or impair any obligations of Lessee under this Lease, which shall continue in full force and effect and shall be absolute during the term hereof. Lessee agrees that Lessor shall not incur any liability to Lessee for any loss of business, loss of profits, expenses, or any other damages resulting to Lessee by reason of any failure of or delay in delivery or any delay caused by any non-performance, defective performance, or breakdown of the Equipment, nor shall Lessor at any time be responsible for personal injury or the loss or destruction of any other property resulting from the Equipment.

In the event of loss or damage to any item of the Equipment which does not constitute a Total Loss (as hereinafter defined), Lessee shall, at its sole cost and expense, promptly repair and restore such item of the Equipment to the condition required by this Lease. Provided that Lessee is not then in Default, upon receipt of evidence reasonably satisfactory to Lessor of completion of such repairs, Lessor will apply any insurance proceeds received by Lessor on account of such loss or damage to the cost of such repairs.

Upon the occurrence of: (a) the actual or constructive total loss of any item of the Equipment; or (b) the loss, theft or destruction of any item of the Equipment or damage to any item of the Equipment to such extent as shall make repair thereof uneconomical or shall render any item of the Equipment permanently unfit for normal use for any reason whatsoever; or (c) the condemnation, confiscation, requisition, seizure, forfeiture or other taking of title to or use of any item of the Equipment (as established to the reasonable satisfaction of Lessor; any such occurrence being herein referred to as a "Total Loss") during the

term of this Lease, Lessee shall give prompt notice thereof to Lessor. Thereafter, on the next date for the payment of rent, Lessee shall pay to Lessor the rent which would have been due on that date plus the Stipulated Loss Value of the item or items of the Equipment with respect to which the Total Loss has occurred and any other sums due hereunder with respect to that Equipment (less any insurance proceeds or condemnation award actually paid).

Upon making such payment in respect of any item of the Equipment, this Lease and the obligation to make future rental payments shall terminate solely with respect to the Equipment or items thereof so paid for and (to the extent applicable) Lessee thereupon shall become entitled thereto as is where is without warranty, express or implied, with respect to any matter whatsoever. Lessor shall deliver to Lessee a bill of sale transferring and assigning to Lessee without recourse or warranty, except in respect of Lessor's acts, all of Lessor's title and interest in and to the Equipment. Lessor shall not be required to make and may specifically disclaim any representation or warranty as to the condition of the Equipment or any other matters.

As used herein, "Stipulated Loss Value" shall mean the product of the Total Invoice Cost (as designated on the appropriate Equipment Schedule) of the item or items of Equipment and the applicable percentage factor set forth on the Schedule of Stipulated Loss Values attached to the Equipment Schedule.

Stipulated Loss Value shall be determined as of the next date on which a payment of rent is or would be due after a Total Loss or other termination of this Lease, after payment of any rent due on such date, and the applicable percentage factor shall be that which is set forth with respect to such rent payment. After payment of the final payment of rent due under the original term of this Lease and during any renewal term hereof, Stipulated Loss Value shall be determined as of the date of termination of this Lease (absent any renewal thereof) or, if during a renewal term, on the next date on which a payment of rent is or would be due after a Total Loss or other termination of such renewal term, after payment of any rent due on such date, and the applicable percentage factor shall be the last percentage factor set forth on the Schedule of Stipulated Loss Values.

14. REDELIVERY. Upon the expiration or earlier termination of this Lease (or of any renewal hereof, if applicable), Lessee shall (unless Lessee has paid the Stipulated Loss Value with respect thereto pursuant to Section 13 hereof), at its own expense, return the Equipment to Lessor within thirty (30) days in (a) the same condition as when delivered to Lessee hereunder, ordinary wear and tear resulting from proper use thereof alone excepted, and in such operating condition as is capable of performing its originally intended use; (b) in compliance with the Interchange Rules of the Association of American Railroads;

and (c) in such condition that the Equipment is able to perform to the original manufacturer's specifications with regard to load carrying capacity; and free and clear of all liens, encumbrances or rights of others whatsoever except liens or encumbrances resulting from claims against Lessor not relating to the ownership of such Equipment. For the purpose of delivering possession of any item of Equipment as above required, Lessee shall at its own cost, expense and risk, take the following actions as directed by Lessor:

(1) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any such item of Equipment has been interchanged or which may have possession thereof to return such item of Equipment) and at the usual speed, place such item of Equipment upon such storage tracks of Lessee as Lessor reasonably may designate;

(2) cause such items of Equipment to be stored on such tracks without charge for rent or storage until all such items of Equipment have been sold, leased or otherwise disposed of by Lessor;

(3) to accommodate remarketing of any items of the Equipment and in the event the cost of storage upon such lines exceeds the cost of storage on lines of Lessee, furnish and arrange for Lessor to store such items of Equipment on any lines of railroads or premises approved by Lessor until such items of Equipment have been sold, leased or otherwise disposed of by Lessor;

(4) cause the items of Equipment to be moved to such interchange point or points within the continental United States as shall be designated by Lessor upon any sale, lease or other disposal of all or any of the items of Equipment.

The assembling, delivery and storage of the Equipment as hereinbefore provided shall be at the expense and risk of Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to assemble, deliver and store the Equipment. During the period of storage, Lessee will, at its own cost and expense, maintain insurance in accordance with the requirements of Section 12 hereof, maintain and keep the Equipment in good order and repair and will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such items of Equipment to inspect the same. All amounts earned in respect of all items of Equipment after the date of termination of this Lease shall, to the extent that such amount

exceeds the expenses of Lessee incurred in generating such earnings, belong to Lessor and, if received by Lessee, shall be promptly turned over to Lessor.

Upon redelivery, the Equipment will be inspected by a field service engineer, acceptable to Lessor, to ascertain the condition of the Equipment. If any repairs are necessary to place the Equipment in the condition required by this Section, as determined by such inspection, Lessee will promptly pay the cost of such repairs as additional rent to Lessor. In addition to Lessor's other rights and remedies hereunder, if the Equipment is not returned in a timely fashion, or if repairs are necessary to place the Equipment in the condition required in this Section, Lessee shall continue to pay to Lessor rent at the last prevailing lease rate hereunder for the period of delay in redelivery, or for the period of time reasonably necessary to accomplish such repairs together with the cost of such repairs, as applicable.

15. OPTION TO RENEW. Provided that Lessee is not then in Default, Lessee shall have the option to renew this Lease, at the expiration of the term of this Lease, with respect to all but not less than all of the Equipment, on the terms and conditions of this Lease, for a negotiated renewal term at a negotiated periodic rent based on the fair market rental value of such Equipment determined at the time of renewal.

If Lessee desires to exercise this option it shall, at least two hundred forty (240) days before expiration of the term of this Lease, give Lessor written notice of its intention to exercise this option to renew; and shall engage in negotiations with Lessor to determine the periodic rent to be paid during the renewal term. Not less than one hundred eighty (180) days before expiration of the term of this Lease, Lessee shall give Lessor written notice of its election to renew on the terms mutually agreed upon during negotiations.

If the parties are unable to agree on the fair market rental value or the Equipment, then Lessor and Lessee shall at Lessee's expense obtain appraisal values from three independent appraisers (one to be selected by Lessor, one by Lessee, and the other by the two selected by Lessor and Lessee) and the average fair market rental value as determined by such appraisers shall be binding on the parties hereto.

16. OPTION TO PURCHASE. Provided that Lessee is not then in Default, Lessee shall have the option to purchase, upon the expiration of the term of this Lease, or of any subsequent renewal term, if applicable, all but not less than all of the Equipment subject to this Lease upon the following terms and conditions:

If Lessee desires to exercise this option it shall, at least two hundred forty (240) days before expiration of the term of

this Lease, give Lessor written notice of its intention to exercise this option to purchase and shall engage in negotiations with Lessor to determine the Purchase Price for the Equipment. Not less than one hundred eighty (180) days before expiration of the term of this Lease, Lessee shall give Lessor written notice of its election to purchase on the terms mutually agreed upon during negotiations. Thereupon, at the expiration of the term of this Lease, Lessee shall pay to Lessor in cash the Purchase Price for the Equipment so purchased.

The Purchase Price of the Equipment shall be an amount equal to its then fair market value (which shall not exceed twenty-five (25) percent of the original Total Invoice Cost of the Equipment), together with all taxes and charges upon sale. For purposes of this Section, "fair market value" shall be deemed to be an amount equal to the sale price obtainable in an arms' length transaction between a willing and informed buyer (other than a buyer currently in possession) and a willing and informed seller under no compulsion to sell. If the parties are unable to agree on the fair market value of the Equipment, then the appraisal procedure set forth in Section 15 hereof shall be followed.

Notwithstanding any election of Lessee to purchase, the provisions of this Lease shall continue in full force and effect until the passage of ownership of the Equipment upon the date of purchase. On the date of purchase, Lessor shall deliver to Lessee a bill of sale transferring and assigning to Lessee without recourse or warranty, except in respect of Lessor's acts, all of Lessor's right, title and interest in and to the Equipment. Lessor shall not be required to make and may specifically disclaim any representation or warranty as to the condition of the Equipment or any other matters.

#### 17. INDEMNITY.

(a) General. Lessee assumes and agrees to indemnify, defend, and keep harmless Lessor, its agents and employees, from and against any and all losses, damages, injuries, claims, demands and expenses, including legal expenses (other than such as may directly and proximately result from the gross negligence or wilful misconduct of Lessor, its agents or employees), arising on account of the ordering, acquisition, delivery, installation or rejection of the Equipment, the possession, maintenance, use, condition (including without limitation, latent and other defects and whether or not discoverable by Lessor or Lessee, any claim in tort for strict liability, and any claim for patent, trademark or copyright infringement) or operation of any item of the Equipment, and by whomsoever used or operated, during the term of this Lease with respect to that item of the Equipment, the loss, damage, destruction, removal, return, surrender, sale or other disposition of the Equipment, or any item thereof. Lessor shall give Lessee prompt notice of any claim or liability hereby indemnified against and that Lessee shall be entitled to control

the defense thereof, so long as Lessee is not in Default hereunder.

(b) Tax. (1) Lessee represents and warrants that it believes that it is reasonable to estimate that the useful life of the Equipment exceeds the lease term provided herein and in the Equipment Schedule by the greater of one (1) year or twenty (20) percent of such estimated useful life, and that said Equipment will have a value at the end of the original lease term provided herein and in the Equipment Schedule of at least twenty (20) percent of the Total Invoice Cost (as specified on the Equipment Schedule) of the Equipment, without including in such value any increase or decrease for inflation or deflation during the original lease term (all as evidenced by the certificate of a qualified party to be provided at Lessee's expense to Lessor prior to the commencement of the lease term); and (y) the Equipment is, and will be used by Lessee so as to remain, property eligible for depreciation deductions under Section 167 of the Internal Revenue Code of 1986, as now or hereafter amended (the "Code"), determined in accordance with the provisions of Section 168 of the Code, during the term of this Lease with respect thereto, and is assigned to the class of property specified in the Equipment Schedule pertaining thereto.

(2) If Lessor in computing its taxable income or liability for tax, (x) shall either lose, or shall not have, or shall lose the right to claim, or there shall be disallowed or recaptured, for Federal and/or state income tax purposes, in whole or in part, the benefit of ACRS Deductions; or (y) Lessor shall become liable for additional tax as a result of Lessee having added an attachment or made an alteration to the Equipment which would increase the productivity or capability of the Equipment so as to violate the provisions of Rev. Proc. 75-21, 1975-1 C.B. 715, or Rev. Proc. 79-48, 1979-2 C.B. 529 (as either or both may hereafter be modified or superseded); or (z) the statutory melded full-year marginal Federal tax rate for corporations with a December 31 tax year-end is greater than thirty-four (34) percent in 1988 or in any year thereafter; hereinafter referred to as a "Loss"; then Lessee shall pay Lessor the Tax Indemnification Payment as additional rent and Lessor may revise the Schedule of Stipulated Loss Values to reflect the Loss. As used herein, "ACRS Deductions" shall mean the deductions under Section 167 of the Code determined in accordance with the modified Accelerated Cost Recovery System with respect to the Total Invoice Cost of any item of the Equipment in accordance with the accelerated method set forth in Section 168 of the Code as in effect on the date of this Lease for property assigned to the class of property specified in the Equipment Schedule pertaining thereto; and "Tax Indemnification Payment" shall mean such amount as, after consideration of (i) all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of any governmental or taxing authority in the United States, and (ii) the amount of any interest or penalty which may be payable by Lessor in connection with the Loss, shall

be required to cause Lessor's after-tax net return (the "Net Return") to be equal to, but no greater than, the Net Return contemplated consistently with current tax laws as of the date of this Lease.

(3) Lessor shall be responsible for, and shall not be entitled to a Tax Indemnification Payment by Lessee on account of, any Loss arising solely as a direct result of the occurrence of any one or more of the following events: (i) the failure of Lessor to timely and properly claim ACRS Deductions in the tax return of Lessor other than as a result of changes in the Code or applicable regulations unless in the reasonable opinion of Lessor's tax counsel there is no basis for such claim; or (ii) the failure of Lessor to have sufficient taxable income before application of the ACRS Deductions to offset the full amount of such ACRS Deductions other than as a result of changes in the Code or applicable regulations; or (iii) any event which by the terms of this Lease requires payment by Lessee of the Stipulated Loss Value if such payment is thereafter actually made by Lessee to Lessor, to the extent that such payment reimburses Lessor for amounts otherwise payable by Lessee pursuant to this sub-part (b); or (iv) a disqualifying disposition due to sale of any item of the Equipment or this Lease by Lessor prior to a Default.

(4) Lessor promptly shall notify Lessee in writing of such Loss and Lessee shall pay to Lessor the Tax Indemnification Payment within thirty (30) days of such notice. For these purposes, a Loss shall occur upon the earliest of (i) the happening of any event (such as disposition or change in use of any item of the Equipment) which will cause such Loss; (ii) the payment by Lessor to the Internal Revenue Service or State taxing authority of the tax increase resulting from such Loss; (iii) the date on which the Loss is realized by Lessor; or (iv) the adjustment of the tax return of Lessor to reflect such Loss.

(c) As used in this Section and in Section 10 hereof, the term "Lessor" shall mean and include Lessor and the consolidated Federal taxpayer group of which Lessor is a member.

18. DEFAULT; REMEDIES. (a) Lessee shall be deemed to be in default hereunder ("Default") if (1) Lessee shall fail to make any payment of rent or any other payment hereunder within ten (10) days after the same shall have become due; or (2) Lessee shall fail to obtain and maintain the insurance required herein; or (3) Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof to Lessee by Lessor; or (4) Lessee shall (A) be generally not paying its debts as they become due, (B) file, or consent by answer or otherwise to the filing against it, of a petition for relief or reorganization or an arrangement or any other petition in bankruptcy or to take advantage of any bankruptcy or insolvency law of any jurisdiction, (C) make an assignment for the benefit

of its creditors, (D) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property; or (5) a court or governmental authority of competent jurisdiction shall enter an order appointing, without the consent of the Lessee a custodian, receiver, trustee or other officer with similar powers with respect to the Lessee or any substantial part of its property, or constituting an order for relief under any bankruptcy or insolvency law, or approving a petition for the relief, reorganization or arrangement of Lessee or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction or ordering the dissolution, winding up or liquidation of the Lessee or if any such petition shall be filed against the Lessee and such petition shall not be dismissed within sixty (60) days; or (6) Lessee shall make or permit any unauthorized assignment or transfer of this Lease, the Equipment or any interest therein; or (7) with respect to any guarantor (A) the occurrence of any event described in sub-parts (4) or (5) hereof, (B) the anticipatory repudiation of its obligations pursuant to any guaranty issued in connection herewith, or (C) the termination of its corporate existence and its obligations in connection herewith are not assumed by a successor in interest reasonably satisfactory to Lessor; or (8) any certificate, statement, representation, warranty or audit contained herein or heretofore or hereafter furnished with respect hereto by or on behalf of Lessee or any guarantor proving to have been false in any material respect at the time as of which the facts therein set forth were stated or certified, or having omitted any substantial contingent or unliquidated liability or claims against Lessee or any such guarantor; or (9) Lessee shall be in default under any material obligation for the payment of borrowed money, for the deferred purchase price of property or for the payment of any rent under any lease agreement, and the applicable grace period with respect thereto shall have expired; or (10) Lessee shall have terminated its corporate existence, consolidated with, merged into, or conveyed or leased substantially all of its assets as an entirety to (such action as being referred to as an "Event"), any person, unless (prior to such Event): (x) such person is organized and existing under the laws of the United States or any state, and executes and delivers to Lessor an agreement containing an effective assumption by such person of the due and punctual performance of this Lease; and (y) Lessor is reasonably satisfied as to the creditworthiness of such person; or (11) as a result of or in connection with a material change in the ownership of Lessee's capital stock, Lessee's debt to worth ratio equals or exceeds twice Lessee's debt to worth ratio as of the date of this Lease, without the prior written consent of Lessor. As used herein, "debt to worth ratio" shall mean the ratio of (1) Lessee's total liabilities which, in accordance with GAAP, would be included in the liability side of a balance sheet, to (2) Lessee's tangible net worth including the sum of the par or stated value of all outstanding capital stock, surplus and undivided profits, less any amounts attributable to good will,

patents, copyrights, mailing lists, catalogs, trademarks, bond discount and underwriting expenses, organization expenses and other tangibles, all as determined in accordance with GAAP. Solely for the purpose of this Section 18, each Equipment Schedule executed pursuant to this Lease shall constitute a separate instrument of lease; provided, however, that the occurrence of a Default with respect to any Equipment Schedule shall, at the sole discretion of Lessor (as set forth in a written declaration to Lessee) constitute a Default with respect to each Equipment Schedule.

Notwithstanding anything to the contrary set forth herein, Lessor may exercise all rights and remedies hereunder independently with respect to each Equipment Schedule.

(b) Upon a Default hereunder, Lessor may, at its option, declare this Lease to be in default by written notice to Lessee, (without election of remedies), and at any time thereafter, may do any one or more of the following, all of which are hereby authorized by Lessee:

(1)(A) declare the then Stipulated Loss Value of the Equipment (determined as of the next date on which a payment is or would have been due after the declaration of a Default), together with all other sums due hereunder as of such next payment date with respect to such Equipment, immediately due and payable with respect to any or all of the Equipment (the parties also deem that such amount best reflects the damages Lessor would sustain in the event of Lessee's bankruptcy or insolvency and this Lease were not assumed); or (B) sue for and recover all rent and other payments hereunder, then accrued or thereafter accruing, with respect to any or all of the Equipment; and/or

(2)(A) require Lessee to assemble any or all of the Equipment at the location to which the Equipment was delivered or the location to which such Equipment may have been moved by Lessee or such other location in reasonable proximity to either of the foregoing as Lessor shall designate; or to return promptly, at Lessee's expense, any or all of the Equipment to Lessor at the location, in the condition and otherwise in accordance with all of the terms of Section 14 hereof; and/or (B) take possession of and render unusable by Lessee any or all of the Equipment, wherever it may be located, without any court order or other process of law and without liability for any damages occasioned by such taking of possession (any such taking of possession shall constitute an automatic termination of this Lease as it applies to those items taken without further notice, and such taking of possession shall not prohibit Lessor from exercising its other remedies hereunder); and/or

(3)(A) sell or otherwise dispose of any or all of the Equipment, whether or not in Lessor's possession, in a commercially reasonable manner at public or private sale with notice to Lessee (the parties agreeing that ten (10) days' prior

written notice shall constitute adequate notice of such sale), with the right of Lessor to purchase and apply the net proceeds of such disposition, after deducting all costs of such disposition (including but not limited to costs of transportation, possession, storage, refurbishing, advertising and brokers' fees), to the obligations of Lessee hereunder with Lessee remaining liable for any deficiency and with any excess being retained by Lessor; or (B) retain any Equipment the possession of which is recovered by Lessor and credit the fair market value thereof to the obligations of Lessee hereunder with Lessee remaining liable for any deficiency and with Lessor having no obligation to reimburse Lessee on account of any excess of such fair market value over such obligations; and/or

(4) terminate this Lease as to any or all of the Equipment; and/or

(5) exercise any other right or remedy available to Lessor at law or in equity.

Unless otherwise provided above, a termination hereunder shall occur only upon written notice by Lessor to Lessee and only with respect to such items of the Equipment as Lessor specifically elects to terminate in such notice. Except as to such items of the Equipment with respect to which there is a termination, this Lease shall remain in full force and effect and Lessee shall be and remain liable for the full performance of all its obligations hereunder.

In addition, Lessee shall be liable for all reasonable legal fees and other expenses incurred by reason of any Default or the exercise of Lessor's remedies, including all costs and expenses incurred in connection with the return of any Equipment in accordance with the terms of Section 14 hereof or in placing such Equipment in the condition required by said Section. Unless the content expressly requires otherwise, no right or remedy referred to in this Section is intended to be exclusive, but each shall be cumulative, and shall be in addition to any other remedy referred to above or otherwise available at law or in equity, and may be exercised concurrently or separately from time to time.

The failure of Lessor to exercise the rights granted hereunder upon any Default by Lessee shall not constitute a waiver of any such right upon the continuation or reoccurrence of any such Default. In no event shall the execution of an Equipment Schedule constitute a waiver by Lessor of any pre-existing Default in the performance of the terms and conditions hereof.

19. ASSIGNMENT BY LESSOR AND LESSEE. Without the prior written consent of Lessor (which shall not unreasonably be withheld), Lessee will not assign any of its rights hereunder, sublet the Equipment or otherwise permit the Equipment to be operated or used by, or to come into or remain in the possession

of, anyone but Lessee. No assignment or sublease, whether authorized in this Section or in violation of the terms hereof, shall relieve Lessee of its obligations hereunder and Lessee shall remain primarily liable hereunder. In the event that this Lease is assigned by Lessee or its trustee in bankruptcy during the course of a pending bankruptcy of Lessee without Lessor's consent, Lessee agrees on behalf of itself and its trustee that any proceeds, profits or rentals received as a result of such assignment shall be immediately paid over to Lessor as additional security for adequate assurance of future performance by the assignee of Lessee or its trustee in bankruptcy.

Lessor may at any time assign any or all of its rights, obligations, title and interest hereunder, to any other person with or without notice to Lessee. If Lessee is given notice of any such assignment, Lessee shall acknowledge receipt thereof in writing. In the event Lessor retains the obligations of the lessor hereunder in any such assignment, Lessor's assignee shall not be obligated to perform any duty, covenant or condition required to be performed by the lessor under the terms of this Lease (other than the covenant of quiet enjoyment specified in Section 20 hereof); and no breach or default by Lessor hereunder or pursuant to any other agreement between Lessor and Lessee, should there be one, shall excuse performance by Lessee of any provision hereof; it being understood that in the event of a default or breach by Lessor that Lessee shall pursue any rights on account thereof solely against Lessor.

Subject always to the foregoing, this Lease inures to the benefit of, and is binding upon, the successors and assigns of the parties hereto.

20. QUIET POSSESSION. Lessor represents and covenants to Lessee that Lessor has full authority to enter into this Lease, and that, conditioned upon Lessee performing all of the covenants and conditions hereof, as to claims of Lessor or persons claiming under Lessor, Lessee shall peaceably and quietly hold, possess and use the Equipment during the term of this Lease subject to the terms and provisions hereof.

21. LESSOR'S RIGHT TO PERFORM FOR LESSEE. If Lessee fails to perform or comply with any of its obligations hereunder, Lessor shall have the right, but shall not be obligated, to effect such performance, and the amount of any out of pocket expenses and other reasonable expenses of Lessor incurred in connection with such performance, together with interest thereon at the Late Charge Rate, shall be payable by Lessee upon demand.

Lessee hereby irrevocably appoints Lessor as Lessee's attorney-in-fact (which power shall be deemed coupled with an interest) to execute, endorse and deliver any documents and checks or drafts relating to or received in payment for any loss or damage under the policies of insurance required by the

provisions of Section 12 hereof, but only to the extent that the same relates to the Equipment.

22. NOTICE. All notices (excluding billings and communications in the ordinary course of business) hereunder shall be in writing, sent by certified mail, return receipt requested, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party; and shall be effective from the date of mailing.

23. MISCELLANEOUS. This Lease, the Equipment Schedule and any final commitment letter executed by the parties, constitute the entire agreement between the parties with respect to the subject matter hereof and shall not be amended or altered in any manner except by a document in writing executed by both parties.

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.

The representations, warranties and covenants of Lessee herein shall be deemed to be continuing and to survive the closing hereunder. Each execution by Lessee of an Equipment Schedule shall be deemed a reaffirmation and warranty that there shall have been no material adverse change in the business or financial condition of Lessee from the date of execution hereof. The obligations of Lessee under Sections 10, 14 and 17, which accrue during the term of this Lease, shall survive the termination of this Lease.

The captions in this Lease are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

24. MARYLAND LAW GOVERNS. This Lease shall not be effective unless and until accepted by execution by an officer of Lessor at the address, in the State of Maryland, as set forth below the signature of Lessor. This Lease and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed in accordance with, the laws of the State of Maryland, including all matters of construction, validity and performance, regardless of the location of the Equipment. The parties agree that any action or proceeding arising out of or relating to this Lease may be commenced in any state or Federal court of competent jurisdiction in the State of Maryland and each party agrees that a summons and complaint commencing an action or proceeding in any such court shall be properly served and shall confer personal jurisdiction if served personally or by certified



STATE OF MISSOURI     )  
CITY                    ) ss.:  
~~COUNTY~~ OF ST. LOUIS )

On the 16th day of February, 1988, before me personally appeared Robert E. McLachlin, who, being by me duly sworn, did say that he is an Authorized Officer of CONSOLIDATED GRAIN AND BARGE COMPANY, one of the parties to the foregoing instrument, and that said instrument was signed and sealed on behalf of said Corporation, by authority of its by-laws and by resolution of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Nancy J. Chapple  
Notary Public

[NOTARIAL SEAL]

My Commission Expires \_\_\_\_\_

NANCY J. CHAPPLE  
NOTARY PUBLIC—STATE OF MISSOURI  
CITY OF ST. LOUIS  
MY COMMISSION EXPIRES FEB. 26, 1989

EQUIPMENT SCHEDULE

No. 1

forming a part of Equipment Lease Agreement  
dated as of February 16, 1988

1. EQUIPMENT. The Equipment leased hereunder shall be as set forth in the schedule attached hereto.

TOTAL INVOICE COST: \$ 894,600.00

2. TERM. Upon and after the date of execution hereof, the Equipment shall be subject to the terms and conditions provided herein and in the Equipment Lease Agreement referred to above (the "Lease") (which is incorporated herein by reference).

A full term of lease with respect to said Equipment shall commence on the date hereof and shall extend for ninety-six (96) months after the first day of the next succeeding month after the date hereof.

3. RENT.

(a) During the period from the date hereof to the last day of this month, the pro-rated daily rent for said Equipment shall be \$ 404.46 per day; computed as .0452113 % of the Total Invoice Cost specified above, calculated as specified in that certain final commitment letter dated February 8, 1988 executed by the parties. This pro-rated payment shall be made on the last day of the month.

(b) From and after the first day of the next succeeding month after the execution hereof, the monthly rent for said Equipment during the term of this Lease shall be \$ 12,133.82, computed as 1.35634 % of the Total Invoice Cost specified above, calculated as specified in that certain final commitment letter dated February 8, 1988 executed by the parties. Rent payments shall be made, in advance, on the first day of the month for each month during the term of this Lease.

4. LESSEE'S CONFIRMATION. Lessee hereby confirms and warrants to Lessor that the Equipment: (a) has been received, inspected and determined to be in compliance with all applicable specifications and that the Equipment is hereby accepted for all purposes of the Lease; and (b) is a part of the "Equipment" referred to in the Lease and is taken subject to all terms and conditions therein and herein provided. Within five (5) business days after the date of execution hereof, Lessee shall provide to Lessor a written certification that the Equipment has been marked in accordance with the requirements of Section 7 of the Lease.



STATE OF MISSOURI )  
CITY )  
COUNTY OF ST. LOUIS ) ss.:

On the 16th day of February, 1988, before me personally appeared Robert E. McLachlin, who, being by me duly sworn, did say that he is an Authorized Officer of CONSOLIDATED GRAIN AND BARGE COMPANY, one of the parties to the foregoing instrument, and that said instrument was signed and sealed on behalf of said Corporation, by authority of its by-laws and by resolution of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Nancy J. Chapple  
Notary Public

[NOTARIAL SEAL] My Commission Expires: \_\_\_\_\_

NANCY J. CHAPPLE  
NOTARY PUBLIC—STATE OF MISSOURI  
CITY OF ST. LOUIS  
MY COMMISSION EXPIRES FEB. 26, 1989

May 13, 1988

Interstate Commerce Commission  
12th and Constitutional Avenue, NW  
Washington, D.C. 20423  
Attn: Mildred Lee, Room 2303

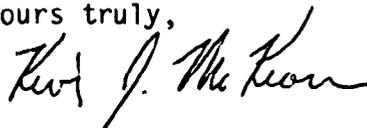
RE: NOTIFICATION OF NAME CHANGE FOR REGISTERED OWNER OF RAILCARS  
ICC RECORDATION NUMBER ~~0-045734~~ 18507

Dear Ms. Lee:

On March 1, 1988, Maryland National Leasing Corporation changed its name to MNC Leasing Corporation. Our company is the registered owner of sixty-three (63) railcars under the filing referenced above. Attached is a listing of the specific railroad cars with road numbers that are covered by the filing above.

Please modify your records to show MNC Leasing Corporation as the registered owner of the railcars. After you have modified your records, please sign the enclosed copy of this letter, indicating the modification has been completed and return it to us. Pursuant to our conversation with you on May 12, it is our understanding that there are no fees associated with the name change. If you have any questions or need any additional information, please feel free to contact us at 1-800-638-4782.

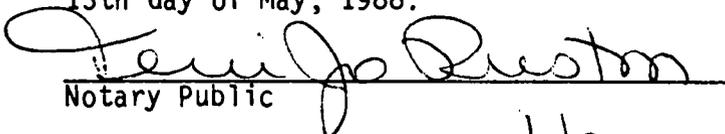
Yours truly,



Kevin J. McKeown  
Administrative Officer

KJM/eaj  
Attachment

Subscribed to and sworn to before me this  
13th day of May, 1988.

  
Notary Public

My commission expires: 7/1/90

Interstate Commerce Commission

Confirmed By: \_\_\_\_\_

RECORDATION NO. 15507 *Handwritten*  
MAY 27 1988-2 05 PM *Handwritten*  
INTERSTATE COMMERCE COMMISSION  
Name Changed *Handwritten*

# SCHEDULE OF EQUIPMENT

Lessee: Consolidated Grain and Barge Company

Approved by REU  
 (Lessee to initial each page)

Page No. 1 of 1 total pages

Attached to Bill of Sale dated  
19

Equipment located at:  
Washington and Water Street

and/or  
 Equipment Schedule No. 1

Street No.  
Wayne City, Fairfield, IL 62895  
 City County State Zip

Manufacturer and/or Vendor Name & Invoice No.	Description	Invoice Cost																																																																		
Helm Financial Corporation  Bill of Sale dated: February 18, 1988	63 - 1975 Pullman Mfg. Co. 100 Ton, Roller Bearing, 4,750 cubic foot covered hopper railcars with the following Road Numbers: <table style="margin-left: 40px; width: 80%; border: none;"> <thead> <tr> <th style="text-align: left;"><u>CGRX</u></th> <th style="text-align: left;"><u>CGRX</u></th> <th style="text-align: left;"><u>CGRX</u></th> </tr> </thead> <tbody> <tr><td>44640</td><td>44739</td><td>44766</td></tr> <tr><td>44641</td><td>44740</td><td>44767</td></tr> <tr><td>44642</td><td>44741</td><td>44769</td></tr> <tr><td>44643</td><td>44742</td><td>44770</td></tr> <tr><td>44644</td><td>44743</td><td>44771</td></tr> <tr><td>44645</td><td>44745</td><td>44772</td></tr> <tr><td>44646</td><td>44748</td><td>44774</td></tr> <tr><td>44647</td><td>44749</td><td>44775</td></tr> <tr><td>44648</td><td>44750</td><td>44776</td></tr> <tr><td>44649</td><td>44751</td><td>44777</td></tr> <tr><td>44728</td><td>44752</td><td>44780</td></tr> <tr><td>44729</td><td>44753</td><td>44781</td></tr> <tr><td>44730</td><td>44754</td><td>44782</td></tr> <tr><td>44731</td><td>44755</td><td>44783</td></tr> <tr><td>44732</td><td>44756</td><td>44784</td></tr> <tr><td>44733</td><td>44757</td><td>44920</td></tr> <tr><td>44734</td><td>44758</td><td>44921</td></tr> <tr><td>44735</td><td>44761</td><td>44922</td></tr> <tr><td>44736</td><td>44762</td><td>44923</td></tr> <tr><td>44737</td><td>44763</td><td>44924</td></tr> <tr><td>44738</td><td>44765</td><td>44925</td></tr> </tbody> </table>	<u>CGRX</u>	<u>CGRX</u>	<u>CGRX</u>	44640	44739	44766	44641	44740	44767	44642	44741	44769	44643	44742	44770	44644	44743	44771	44645	44745	44772	44646	44748	44774	44647	44749	44775	44648	44750	44776	44649	44751	44777	44728	44752	44780	44729	44753	44781	44730	44754	44782	44731	44755	44783	44732	44756	44784	44733	44757	44920	44734	44758	44921	44735	44761	44922	44736	44762	44923	44737	44763	44924	44738	44765	44925	\$ 894,600.00
<u>CGRX</u>	<u>CGRX</u>	<u>CGRX</u>																																																																		
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Unit Price is \$ 14,200.00																																																																				
Total Invoice Cost		\$ 894,600.00																																																																		



# MARYLAND NATIONAL LEASING CORPORATION

## SCHEDULE OF STIPULATED LOSS VALUES

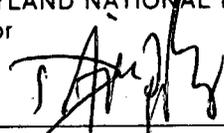
INCORPORATED IN AND MADE A PART OF EQUIPMENT SCHEDULE NO. 1

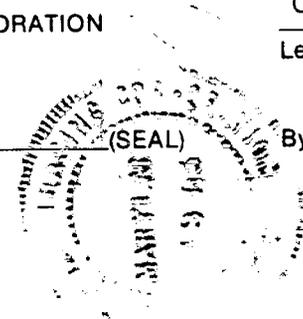
TO EQUIPMENT LEASE AGREEMENT DATED AS OF February 16, 1988,

BETWEEN MARYLAND NATIONAL LEASING CORPORATION ("LESSOR") AND CONSOLIDATED  
GRAIN AND BARGE COMPANY ("LESSEE").

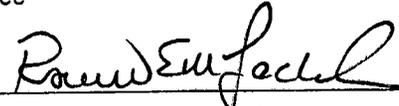
Rental Payment Number	Percent of Equipment Cost	Rental Payment Number	Percent of Equipment Cost	Rental Payment Number	Percent of Equipment Cost
1	101.40160	37	81.34705	73	50.33328
2	100.99131	38	80.62328	74	49.31961
3	100.57360	39	79.89339	75	48.30058
4	100.14895	40	79.15462	76	47.27089
5	99.71680	41	78.40965	77	46.23574
6	99.27762	42	77.65570	78	45.18982
7	98.83137	43	76.89272	79	44.13306
8	98.37749	44	76.12338	80	43.07068
9	97.91644	45	75.34491	81	41.99735
10	97.44818	46	74.55727	82	40.91302
11	96.97215	47	73.76311	83	39.82289
12	96.48882	48	72.95967	84	38.72165
13	95.99814	49	72.14690	85	37.60922
14	95.49984	50	71.32595	86	36.48789
15	94.98818	51	70.50084	87	35.36376
16	94.46900	52	69.66627	88	34.22830
17	93.93633	53	68.82746	89	33.08995
18	93.39601	54	67.97909	90	31.94018
19	92.84799	55	67.12111	91	30.77893
20	92.28630	56	66.25875	92	29.61462
21	91.71679	57	65.38669	93	28.43874
22	91.13938	58	64.50487	94	27.25120
23	90.54813	59	63.61852	95	26.06046
24	89.94887	60	62.72231	96	25.00000
25	89.34153	62	60.90246		
26	88.72345	63	59.98400		
27	88.09631	64	59.05549		
28	87.46093	65	58.12216		
29	86.81638	66	57.17869		
30	86.16348	67	56.22501		
31	85.50218	68	55.26636		
32	84.83156	69	54.29740		
33	84.15242	70	53.31809		
34	83.46472	71	52.33363		
35	82.76752	72	51.33872		
36	82.06165				

MARYLAND NATIONAL LEASING CORPORATION  
 Lessor

By:   
 David Avigdor  
 Vice President



CONSOLIDATED GRAIN AND BARGE COMPANY  
 Lessee

By:   
 Robert E. McLachlin  
 Chief Financial Officer  
 and Executive Vice President

