

LAW OFFICES

ALVORD AND ALVORD

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

ROBERT W. ALVORD*
CARL C. DAVIS*
CHARLES T. KAPPLER
JOHN H. DOYLE*
GEORGE JOHN KETO*
MILTON C. GRACE*
JAMES C. MARTIN, JR.*

200 WORLD CENTER BUILDING

918 SIXTEENTH STREET, N.W.

WASHINGTON, D.C.

20006-2973

RECORDATION NO. 1 5553 Filed 1425

OF COUNSEL
JESS LARSON
JOHN L. INGOLDSBY
URBAN A. LESTER

CABLE ADDRESS
"ALVORD"

TELEPHONE
AREA CODE 202
393-2266

- *NOT A MEMBER OF D.C. BAR
- *ALSO ADMITTED IN NEW YORK
- *ALSO ADMITTED IN OHIO
- *ALSO ADMITTED IN MARYLAND

MAR 31 1988 - 11 40 AM

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INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 1 5553/A Filed 1425

March 31, 1988

MAR 31 1988 - 11 40 AM

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C.

No. 8-091A054

Date MAR 31 1988

Fee \$ 26.00

ICC Washington, D.C.

Dear Ms. McGee:

Enclosed for recordation, in the following order, pursuant to the provisions of 49 U.S.C. §11303(a) are seven fully executed counterparts each of the following primary documents:

1. Loan and Security Agreement dated as of March 30, 1988 among Signal Capital Corporation, as Owner, Bank of America National Trust and Savings Association, as Lender, and Bank of America National Trust and Savings Association, as Agent.
2. Lease Agreement dated as of March 30, 1988 between Signal Capital Corporation, Lessor, and Southern Pacific Transportation Company, Lessee.

The names and addresses of the parties executing the enclosed documents are:

Secured Party/
Lender:

Bank of America National Trust and Savings Association
BankAmeriLease Group
Two Embarcadero Center, 28th Floor
San Francisco, California 9411

Debtor/
Lessor:

Signal Capital Corporation
505 14th Street, Suite 480
Oakland, California 94617
and
Liberty Lane
Hampton, New Hampshire 03842

Secretary
CT. Kappler

100-1-11-11

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NOTICE

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
March 31, 1988
Page Two

Lessee: Southern Pacific Transportation Company
Southern Pacific Building
One Market Plaza, Suite 666
San Francisco California 94105

A description of the railroad equipment covered by the enclosed documents is set forth in Schedule A attached hereto and made a part hereof.

Also enclosed is a check in the amount of \$26 payable to the order of the Interstate Commerce Commission covering the required recordation fees.

Kindly return six stamped counterparts each of the enclosed documents to the undersigned.

A short summary of the enclosed primary documents to appear in the Commission's Index is:

Loan and Security Agreement dated as of March 30, 1988 between Signal Capital Corporation, Debtor, and Bank of America National Trust and Savings Association, as a Lender and Agent; and Lease Agreement dated as of March 30, 1988 between Signal Capital Corporation, Lessor, and Southern Pacific Transportation Company, Lessee, covering forty (40) 3600 H.P. SD 45-T2 diesel electric locomotives bearing new marks and numbers SP 6829 - SP 6868.

Very truly yours,


Charles T. Kappler

Enclosures

MAR 31 1988 1 40 AM

THE RIGHTS OF LESSOR UNDER THIS LEASE AGREEMENT AND IN THE UNITS COVERED HEREBY HAVE BEEN ASSIGNED TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR OF, BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION ("BANK"), AS AGENT UNDER A LOAN AND SECURITY AGREEMENT DATED AS OF MARCH 30, 1988. THIS LEASE AGREEMENT HAS BEEN EXECUTED IN COUNTERPARTS. TO THE EXTENT THAT THIS LEASE AGREEMENT CONSTITUTES CHATTEL PAPER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE UNITED STATES JURISDICTION), NO SECURITY INTEREST IN THIS LEASE AGREEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL EXECUTED COUNTERPART CONTAINING THE RECEIPT THEREFOR EXECUTED BY BANK ON THE SIGNATURE PAGE HEREOF.

LEASE AGREEMENT

dated as of

March 30, 1988

between

SIGNAL CAPITAL CORPORATION,

as Lessor,

and

SOUTHERN PACIFIC TRANSPORTATION COMPANY,

as Lessee.

40 3600 HP General Motors
6-Axle SD45-T2 Diesel-Electric Locomotives
(Identification Numbers SP6829-SP6868)

Filed with the Interstate Commerce Commission
pursuant to 49 U.S.C. § 11303
on _____, 1988 at ____:____.m.
recordation number _____.

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ANNEX I - Addresses for Notices
ANNEX II - Definitions

EXHIBIT A - Description of Units
EXHIBIT B - Form of Bill of Sale

THE RIGHTS OF LESSOR UNDER THIS LEASE AGREEMENT AND IN THE UNITS COVERED HEREBY HAVE BEEN ASSIGNED TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR OF, BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION ("BANK"), AS AGENT UNDER A LOAN AND SECURITY AGREEMENT DATED AS OF MARCH 30, 1988. THIS LEASE AGREEMENT HAS BEEN EXECUTED IN COUNTERPARTS. TO THE EXTENT THAT THIS LEASE AGREEMENT CONSTITUTES CHATTEL PAPER (AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE UNITED STATES JURISDICTION), NO SECURITY INTEREST IN THIS LEASE AGREEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL EXECUTED COUNTERPART CONTAINING THE RECEIPT THEREFOR EXECUTED BY BANK ON THE SIGNATURE PAGE HEREOF.

LEASE AGREEMENT dated as of March 30, 1988 (this "Agreement") between SIGNAL CAPITAL CORPORATION, a Delaware corporation, with its principal place of business at Oakland, California or Hampton, New Hampshire (as Lessor), and SOUTHERN PACIFIC TRANSPORTION COMPANY, a Delaware corporation with its principal place of business at San Francisco, California (as Lessee).

I N T R O D U C T I O N

Pursuant to the Participation Agreement, Lessor has agreed to purchase Units and, pursuant to this Lease, Lessor has agreed to lease the same to Lessee and Lessee has agreed to sell the Units to Lessor by Bill of Sale in the form of Exhibit B hereto and to lease the same from Lessor hereunder.

ACCORDINGLY, in consideration of the foregoing premises and of other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Definitions.

Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned thereto in Annex II for all purposes hereof (such definitions to be equally applicable to both the singular and the plural forms of the terms defined).

SECTION 2. Acceptance Under Lease.

Subject to satisfaction of the conditions set forth in Sections 3 and 4 of the Participation Agreement, Lessor agrees

to lease to Lessee hereunder, and Lessee agrees to lease from Lessor hereunder, all Units sold by Lessee to Lessor pursuant to the Participation Agreement, as evidenced by the execution and delivery by Lessor and Lessee of one or more Acceptance Certificates confirming the leasing of such Units hereunder. Execution and delivery of each Acceptance Certificate by Lessee shall, without further act, irrevocably constitute acceptance by Lessee of the Units described therein for all purposes of this Lease.

SECTION 3. Term and Rent.

(a) Term. The Term of this Lease for each Unit shall consist of an Interim Term, a Basic Term and a Renewal Term as follows:

(i) Interim Term. The Interim Term for each Unit shall commence on the Delivery Date specified in the Acceptance therefor and unless sooner terminated under the terms hereof, shall extend until (but not including) the first day of the Basic Term therefor.

(ii) Basic Term. The Basic Term for each Unit shall commence on January 1, 1989, and unless sooner terminated under the terms hereof, shall extend through and expire on December 31, 1997.

(iii) Renewal Term. The Renewal Term, if any, for all Units then subject to this Lease shall commence on the day following expiration of the Basic Term, and unless sooner terminated under the terms hereof, shall expire on December 31, 1999.

(iv) Continuing Obligations. Notwithstanding expiration or termination of this Lease, all the obligations of Lessee, except for the payment of rental or taxes accruing after the termination or expiration hereof and the furnishing of annual reports, shall continue until surrender of the Units in accordance with Section 5. Nothing in this paragraph shall be deemed to terminate any obligation or provision of this Lease which by its terms is stated to survive the final payment of rent due hereunder.

(b) [Reserved]

(c) Basic Rent. Lessee shall pay Lessor Basic Rent for each Unit for the Basic Term, payable in arrears in 17 consecutive semi-annual installments, on the last day of the sixth month of each semi-annual period of the Basic Term, commencing on June 30, 1989, and on each Rent Payment Date

thereafter to and including June 30, 1997. Each payment of Basic Rent shall be in an amount equal to the Basic Rent factor set forth in or determined under Exhibit F to the Participation Agreement, multiplied by the Lessor's Cost for each Unit set forth in the Delivery Notice therefor, which amounts of Basic Rent shall be set forth in a Basic Rent Certificate to be delivered following the adjustments specified in Exhibit F to the Participation Agreement.

(d) Renewal Rent. If Lessee elects to renew the Lease pursuant to Section 3(a)(iii), Lessee shall pay Lessor Renewal Rent for each Unit for the Renewal Term, payable in arrears on the last day of each six-month period of the Renewal Term in installments, each equal to the Renewal Rent factor determined under Exhibit F to the Participation Agreement, multiplied by the Lessor's Cost for such Unit.

(e) Supplemental Rent. Notwithstanding the expiration, cancellation or other termination of Lessee's obligation to pay Basic Rent hereunder, Lessee shall pay Lessor, or any other Person entitled thereto, any and all Supplemental Rent promptly as the same becomes due and owing. If Lessee fails to pay any Supplemental Rent, Lessor or such other Person shall have all rights, powers and remedies provided for herein, in any other Operative Document or by law or equity or otherwise. Anything contained in this Lease Agreement to the contrary notwithstanding, each installment of Basic Rent or Stipulated Loss Value hereunder shall be in an amount at least sufficient to pay in full, as of the applicable date, all payments then due and owing on account of the principal and interest on the Loans, and other amounts required to be paid at such time under the Loan Agreement.

(f) Payments. All payments of Rent shall be made, without offset or deduction, to the Person entitled thereto in immediately available funds in Dollars by 11:00 a.m. San Francisco time on the date such Rent is due. Notwithstanding the preceding sentence, Lessor hereby directs, and Lessee agrees, until Lessor and Lessee have received the Agent's Release Notice, that all Rent payable to Lessor (other than Excepted Payments and Rights) shall be paid directly to Agent at Agent's Office (and if made by wire transfer, to Bank of America, ABA #121000358, wire account no. 0656-683980) with instructions "to apply to SIGNAL/SOUTHERN PACIFIC Loan Account" and with sufficient other information to identify the source and application of such funds and advice of such transfer), or as Agent may otherwise direct. After Lessor and Lessee receive the Agent's Release Notice, all Rent payable to Lessor shall be paid to Lessor in immediately available funds in Dollars by 11:00 a.m., San Francisco time, on the date due, at such location as Lessor shall designate. Payments of Rent

constituting Excepted Payments and Rights or any other amount expressly payable under any Operative Document to any Person directly, shall be made to the Person entitled thereto. Any payment provided herein due on any day not a Business Day shall be payable on the next preceding Business Day. No payment of Rent may be prepaid without the prior written consent of Agent and Lessor.

(g) Late Payments. If any amount payable by Lessee under this Lease or the Participation Agreement is not paid when due as herein or therein provided (including without limitation amounts paid by Lessee to Agent but retained by Agent under Section 5.5 of the Loan Agreement because a Lease Default or Lease Event of Default exists), Lessee shall pay, to the extent permitted by law, to the Person entitled thereto, upon demand, interest thereon from the due date thereof to the date paid at a rate per annum (computed on the basis of a 360 day year and actual number of days elapsed, including the first day but excluding the last day) equal to the Post-Default Rate; provided, however, that interest payable at the Post-Default Rate on such amounts shall be reduced by any interest earned on such amounts pursuant to Section 9.9 of the Loan Agreement).

(h) Adjustment to Basic Rent and Stipulated Loss Value. Payments of Basic Rent, Renewal Rent and the Stipulated Loss Value Table for each Unit have been calculated on the assumptions set forth, and are subject to adjustment as provided, in Section 13.12 of and Exhibit F to the Participation Agreement.

SECTION 4. Certain Agreements of Lessee;
Lessor's Representations and
Warranties; Disclaimer.

(a) LESSOR IS NOT A MANUFACTURER OF ANY UNITS OR A DEALER IN SIMILAR PROPERTY AND HAS NOT INSPECTED ANY UNITS PRIOR TO DELIVERY TO AND ACCEPTANCE BY LESSEE. LESSEE (i) ACKNOWLEDGES AND AGREES THAT THE UNITS ARE BEING DELIVERED BY LESSOR TO LESSEE "AS IS" AND "WHERE IS" AND THAT NO CONDITION, WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER HAS BEEN OR IS GIVEN BY OR IS TO BE IMPLIED ON THE PART OF LESSOR IN RELATION TO THE UNITS, (ii) WAIVES AS BETWEEN ITSELF AND LESSOR ALL ITS RIGHTS, EXPRESSED OR IMPLIED (WHETHER STATUTORY OR OTHERWISE) AGAINST LESSOR IN THE UNITS RELATING TO THE CAPACITY, AGE, QUALITY, DESCRIPTION, STATE, CONDITION, TITLE, VALUE, WORKMANSHIP, DESIGN, CONSTRUCTION, USE, OPERATION, PERFORMANCE OR COMPLIANCE WITH SPECIFICATIONS OF THE UNITS AND THE LEASING THEREOF BY LESSOR TO LESSEE, OR TO THE MERCHANTABILITY OR SUITABILITY OF THE UNITS OR THEIR FITNESS FOR ANY USE OR PURPOSE OR AS TO THE ABSENCE OF LATENT OR OTHER

DEFECTS, WHETHER OR NOT DISCOVERABLE, OR AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, OR AS TO THE ABSENCE OF ANY OBLIGATIONS BASED ON STRICT LIABILITY IN TORT, AND (iii) AGREES THAT ALL RISKS OF ANY NATURE, WHETHER PATENT OR LATENT, INCIDENT THERETO ARE TO BE BORNE BY LESSEE, except that Lessor hereby represents and warrants to Lessee that on the Delivery Date of each Unit Lessor shall receive whatever title is conveyed to it by Lessee and that each Unit shall be free of Lessor Liens. In particular and without prejudice to the generality of the foregoing (except as mentioned in the first sentence of this Section 4) Lessor shall have no liability or responsibility whatever and howsoever arising, whether in contract or tort or both, in respect of any loss, liability, damage or delay of or to or in connection with the Units or any Person (which expression includes, without prejudice to the generality thereof, states, governments, municipalities and local authorities) or property whatsoever, whether on the Units or elsewhere irrespective of whether such loss, damage or delay arises from any action or omission of Lessor (other than any action or omission which constitutes willful misconduct or gross negligence of Lessor), or any inadequacy of any Unit or deficiency or defect therein or by any other circumstances in connection therewith or the use, operation or performance of any Unit or any risks relating thereto or any interruption of service, loss of business or anticipated profits or consequential damages or the delivery, operation, servicing, maintenance, repair, improvement, or replacement of any Units. THE PROVISIONS OF THIS SECTION 4 HAVE BEEN NEGOTIATED AND ARE INTENDED TO BE A COMPLETE EXCLUSION AND, EXCEPT AS PROVIDED ABOVE, NEGATION OF ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, BY LESSOR IN ANY CAPACITY, WITH RESPECT TO ANY UNITS, OR ANY PART THEREOF, WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OR ANY OTHER LAW NOW OR HEREAFTER IN EFFECT OR OTHERWISE.

None of the provisions of this Section 4 or any other provision of this Agreement amends, modifies or otherwise affects the representations, warranties or other obligations (express or implied) of Lessee or of any manufacturer, subcontractor or supplier with respect to any Parts of any Units, or releases Lessee or any manufacturer, subcontractor or supplier from any such representation, warranty or obligation.

SECTION 5. Purchase Option; Return of Units.

(a) Purchase Option. Lessee may purchase on the last day of the Basic Term all (but not less than all) of the Units remaining under lease. To exercise such option, Lessee shall give to Lessor irrevocable written notice of its election to purchase not less than 180 nor more than 360 days before the

proposed date of purchase. The purchase price for the Units shall be payable in immediately available funds on the date of purchase and shall be the Fair Market Sale Value of each such Unit, but in no event less than 30.0% nor greater than 42.5% of Lessor's Cost of such Unit. If such purchase option is exercised, upon tender by Lessee of the purchase price therefor specified in the next preceding sentence, together with all accrued but unpaid Rent to and including the date of purchase with respect to such Unit, in the funds and in the manner specified in Section 3(f), Lessor shall, on the applicable purchase date, transfer "as is", "where is" and "with all faults" and without recourse or warranty (except as to the absence of Lessor Liens and the Lien of the Loan Agreement) all Lessor's right, title and interest in and to such Unit to Lessee free and clear of Lessor Liens and the Lien of the Loan Agreement. Any sale, documentary, transfer or similar taxes, duties, levies or other charges payable to any taxing authorities in connection with such purchase shall be paid by Lessee. Upon such purchase, at Lessee's expense, Lessor shall forthwith execute and deliver to Lessee such instruments of release and termination as Lessee shall reasonably request, and execute for record in public offices such instruments as Lessee shall reasonably request to make clear upon public records the title of Lessee to such Unit free and clear of any right, title and interest of Lessor.

(b) Return of Units upon Expiration of Term. Upon the expiration of the Term or any storage period provided hereunder, unless Lessee purchases the Units, Lessee shall, at its own cost and expense, deliver possession of the Units to Lessor upon such tracks of Lessee or any Affiliate of Lessee as Lessor may reasonably designate or, in the absence of such designation, as Lessee may select. Lessee shall permit Lessor to store such Units in one or more locations (but not more than five) on such tracks as Lessee shall designate, provided that such locations are reasonably accessible to Lessor and prospective purchasers and lessees, for a period not exceeding 120 days after the return of the Units in compliance with this Section 5, and transport the Units once within such 120-day period, to a point on the lines of Lessee or any Affiliate of Lessee as directed by Lessor. All movement and storage of such Units for a period not exceeding 90 days is to be at the expense and risk of Lessee on the lines of Lessee or any Affiliate of Lessee and at the expense and risk of Lessor on other lines. At the expiration of such 90-day period but before expiration of a 120-day period, all movement is to be at the expense and risk of Lessor; provided, however, that such expense, if movement is on Lessee's lines, shall be limited to the reasonable costs incurred by Lessee in connection with such movement. After the 90th day, but before expiration of a 120-day period, all storage of Units off of Lessee's lines shall be at Lessor's expense. After the 120th day, all risk of

loss and the costs of storage and movement shall be at Lessor's expense. During any such storage period, Lessee will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any Unit, to inspect the same; provided, however, that Lessee shall not be liable, except to the extent of gross negligence or willful misconduct of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser or lessee, the rights of inspection granted under this sentence.

(c) Condition Upon Return. At the time of such expiration, cancellation or termination of the Basic Term (i) each Unit shall be in full compliance with Sections 7(a) and 8, and shall be free and clear of all Liens (except any Lessor Liens, Agent Liens, Lender Liens and the Lien of the Loan Agreement); (ii) each Unit shall be in the same configuration as when delivered to Lessee hereunder; and (iii) each Unit shall have removed therefrom by Lessee without cost or expense to Lessor all additions, modifications and improvements which Lessee owns pursuant to Section 8. Lessee shall execute and deliver to Lessor such instruments of release and termination of this Lease as to such Unit, in form suitable for recording at such public offices as Lessor may request to make clear upon public records that such Unit is free and clear of all rights of Lessee therein hereunder or otherwise, and shall authorize Lessor to date such instruments the effective date of expiration or earlier cancellation or termination of the Term of this Lease as to such Unit.

(d) Manuals. Unless Lessor otherwise directs, upon the return of the Units, Lessee shall deliver to Lessor all logs, manuals and data, and inspection, modification and overhaul records required to be maintained with respect to the Units or any Part thereof (collectively "Information") under applicable rules and regulations of the AAR and any Governmental Body or organization with jurisdiction and, to the extent not unduly burdensome to Lessee, or unreasonable, and any other Information otherwise maintained with respect to the Units.

(e) Tests. Lessee at its own expense shall provide at the time of return of the Units to Lessor a written spectrographic analysis of samples of crankshaft lube oil removed from each engine at the normal scheduled oil sampling closest to the expiration of the term of this Lease as performed by Lessee's own laboratory. Such oil sampling must occur within the final six months of expiration of the Term of the Lease. Lessee shall provide to Lessor, at Lessor's request, one oil sample for each Unit specified by Lessor in

sufficient quantity that Lessor may have the same analysis performed by an independent laboratory. If such analysis discloses the presence of metal or other foreign substances in amounts which exceed the standards in effect as of the date of this Lease that are published in the manufacturer's maintenance instructions applicable to locomotives for engine shut-down or repair, Lessee shall take appropriate action, prior to the expiration of the term of this Lease, at its own expense to bring the Unit up to "normal" standards under EMD M1752 Rev. L (D-L7A5). Within six months prior to its return to Lessor, each Unit shall have been tested under a normal working load to demonstrate that all mechanical and electrical systems are operating as may be required for Commercial Operation.

(f) Miscellaneous. All costs and expenses incurred in order to place the Units in the condition required by this Section 5 shall be for the account of Lessee. Prior to the delivery of a Unit off Lessee's railroad lines, Lessee may remove or paint over all identifying marks or insignia of Lessee or its Affiliates associating the Unit with Lessee. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and, upon application to any court 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, store and transport the Units.

SECTION 6. Liens.

Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to the Units, Lessor's title thereto or any interest therein or in this Lease or any interests of Lessor in any Rent, except (a) the respective rights of Agent, Lender and Lessee as herein provided, (b) the rights of Agent and Lender under the Loan Agreement, and the rights under the Participation Agreement of the respective parties thereto, (c) the rights of others under agreements or arrangements to the extent expressly permitted by Section 7(b) or 8(b), (d) any Lessor Liens, Agent Liens or Lender Liens, (e) Liens for taxes of Lessee which are either not yet delinquent or being contested in good faith by appropriate and timely proceedings, so long as such proceedings do not involve any non-insubstantial risk of the sale, forfeiture or loss of or interference with the use of any Units or any interest therein in the reasonable opinion of Lessor and Agent, (f) inchoate materialmen's, mechanics', workers', repairers', employees' or other like Liens arising in the ordinary course of Lessee's business for amounts the payment of which is either not yet delinquent or is being contested in good faith by appropriate proceedings so long as such

proceedings do not involve any non-insubstantial risk of the sale, forfeiture or loss of any Units or any interest therein and so long as Lessee has provided adequate security therefor in the reasonable opinion of Lessor and Agent, and (g) Liens arising out of the maintenance of court actions being defended in good faith and on a timely basis so long as such Liens do not involve any non-insubstantial risk of sale, forfeiture or loss of any Units or any interest therein and Liens arising out of judgments or awards against Lessee with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and with respect to which there is secured a stay of execution pending such appeal or proceeding for review; provided, that the aggregate amount of Liens under Paragraphs (e), (f) and (g) of this Section 6 for which no bond or adequate security (in the reasonable opinion of Lessor and Agent) is provided shall not exceed \$1,000,000 in the case of a sales or use tax lien claim, and \$100,000 in any other case, or such higher amounts as Lessor and Agent may approve, such approval not to be unreasonably withheld. Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any Lien not excepted above.

SECTION 7. Registration, Maintenance, and Operation;
Possession; Identification Marks; etc.

(a) Registration; Maintenance; Operation. Lessee shall, at its own cost and expense, except as otherwise provided in Section 9.1 of the Participation Agreement: (1) cause this Lease, the Loan Agreement and any assignment hereof or thereof to be filed with the ICC pursuant to 49 U.S.C. §11303, undertake any required re-filing, re-recording and re-depositing thereof and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will re-file, re-register, re-record or re-deposit whenever required) any and all further instruments required by law (including Section 86 of the Railway Act of Canada) or reasonably requested by Lessor or Agent for the purpose of proper protection, to their satisfaction, of Agent's and Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the assignment hereof to Agent, or the Loan Agreement; and Lessee will promptly furnish to Agent and Lessor evidence of each such filing, registering, recording or depositing, and an opinion or opinions of counsel for Lessee with respect thereto satisfactory to Agent and Lessor; (2) to the extent registration of title of any Unit is required under Applicable Law, forthwith upon the delivery thereof pursuant to Section 2 or at any time thereafter such registration may be required, as the case may be, cause such Unit to be and to remain duly registered under the laws of the United States of

America at all times in the name of Lessor and cause this Lease and the Loan Agreement, to be duly recorded and maintained as a first Lien, and (3) maintain any such required registration of such Unit in the name of Lessor in the United States and Canada under such Applicable Law, and promptly deliver to Lessor and Agent true copies of all applications made in relation to such Unit, of all certificates of registration issued pursuant to such applications and of all notifications given pursuant to such registration or recordation, and shall not do, or permit to be done by any Person, any act which might cause such Unit to be ineligible for such registration.

Lessee shall also:

(i) maintain, inspect, service, repair, overhaul and test each Unit in compliance with all the requirements of the AAR and any Governmental Body or organization with jurisdiction so as to keep such Unit (a) ordinary wear and tear excepted, in good operating order, repair and condition, otherwise in the same condition as when delivered to Lessee hereunder, but with no broken, damaged or missing items or components, (b) in such mechanical and electrical operating condition required for Commercial Operation and (c) fully serviced and inspected to the standards of Lessee applicable to Lessee-owned or leased Units like the Units, and so as to maintain in full force all warranties of the manufacturers and suppliers of Unit components, and in such operating condition as may be necessary to enable any approvals required by the AAR and any such Governmental Body or organization to be maintained in good standing at all times under relevant Applicable Law and such that each Unit will be suitable for immediate purchase or lease and immediate regular use in Commercial Operation in mainline freight service by a Class I line-haul railroad, but in any event in a manner, to an extent and with a standard of care and frequency of maintenance not less than that employed by Lessee with respect to similar equipment owned or leased by Lessee and without regard to any scheduled return of the Units pursuant hereto, which practices shall at all times be at or above the standard of the railroad industry for maintenance of similar equipment by Class I line-haul railroads and any applicable AAR standards; provided, however, that Lessee shall not be deemed in violation of its obligations under this clause (i) with respect to any minor violation which is cured promptly after Lessee becomes aware of it;

(ii) maintain written or computer generated maintenance and overhaul records sufficient to disclose compliance with this Lease, including the dates of the replacement or overhaul of at least the following major components: engine power assemblies, engine main bearings, engine accessory end, engine gear and main generator, turbocharger, air compressor and traction motors and trucks;

and any other records, logs and other materials required by the AAR and any Governmental Body with jurisdiction to be maintained in respect of each Unit and permit Lessor or, until the earlier of (A) receipt by Lessee of the Agent's Release Notice, or (B) return of such Unit to Lessor or sale of such Unit pursuant to any provision hereof, Agent to examine such records at any reasonable time;

(iii) promptly furnish to Lessor such information as may be required to enable Lessor to file any reports required by the AAR and any Governmental Body with jurisdiction as a result of Lessor's ownership of the Units;

(iv) pay for and provide all oil, fuel and lubricant consumed by and required for the operation of the Units, and all repairs, parts and supplies necessary therefor; and

(v) maintain the Units in such condition so as to comply with the provisions of this Lease and the rules and regulations of the AAR and any Governmental Body with jurisdiction from time to time in force.

Lessee will not maintain, use or operate any Units in violation of any Applicable Law of the AAR and any Governmental Body or organization with jurisdiction, or in violation of any license or registration relating to any Unit issued by any such Governmental Body or organization. If any such Applicable Law requires alteration of any Units, Lessee will conform thereto (or obtain waiver or conformance therewith at no expense or risk to Lessor or Agent) and maintain the same in proper operating condition under such Applicable Law; provided, however, that Lessee may in good faith contest the validity or application of any such Applicable Law which does not subject any Unit or any interest therein to any danger of sale, forfeiture or loss. Lessee also agrees not (i) to operate or locate any Unit, or suffer any Unit to be operated or located, in any area excluded from coverage by any insurance in effect or required to be maintained by the terms of Section 10, except in the case of a requisition by the United States Government, where Lessee obtains indemnity in lieu of such insurance from the United States Government against the risks and in the amounts required by Section 10 covering such area or (ii) to defer or postpone any maintenance of any Unit otherwise required pursuant to this Section 7 or install replacement components with excessive wear or with less than usual value solely because such Unit is to be returned to Lessor under Section 5.

(b) Possession. Lessee will not, without the prior written consent of Lessor and, until receipt by Lessor and Lessee of the Agent's Release Notice, Agent, sublease or

otherwise in any manner deliver, transfer or voluntarily relinquish possession, or enter into any contract or arrangement obligating it to deliver, transfer or relinquish possession, of any Unit or any Part thereof or permit any Unit or any Part thereof to be installed on any other equipment, except that, so long as no Lease Default or Lease Event of Default exists and so long as the action to be taken does not affect the security interest created under the Loan Agreement in the Units or any Part thereof, without the prior written consent of Lessor or Agent, Lessee may:

(i) subject any Unit to interchange or other like agreements customary in the industry in the normal course of Lessee's business;

(ii) deliver possession of any Unit or Part thereof to the manufacturer thereof for testing or other similar purposes or to any organization for service, repair, maintenance or overhaul work on such Unit or Part or for alterations or modifications in or additions to such Unit or Part to the extent required or permitted by Section 8(c); and

(iii) sublease any Unit to St. Louis Southwestern Railway Company, so long as such company remains a subsidiary of Lessee, provided that such sublease is and shall be subject and subordinate to this Lease, not inconsistent herewith, and Lessee shall remain obligated to perform all obligations of Lessee under all Operative Documents with respect to such Unit.

(c) Identification Marks. Lessee, so long as this Lease remains in effect, will cause each Unit to be kept numbered with the identification number ("road number") set forth in the Acceptance Certificate describing such Unit and will place, keep and maintain, plainly, distinctly, permanently, and conspicuously marked on each side of such Unit, in letters not less than one inch in height, the legend "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT AND A LEASE FILED WITH THE INTERSTATE COMMERCE COMMISSION" or other appropriate markings designated by Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's title to and Agent's security interest in such Unit and the rights of Lessor under this Lease and of Agent under the Loan Agreement. Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend is so placed and will replace such legend promptly if it is removed, obliterated, defaced or destroyed. Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor is filed with Agent and Lessor and all public offices where this Lease and the Loan Agreement are filed, recorded and deposited and (ii) Lessee furnishes Agent

and Lessor an opinion of counsel to that effect and to the further effect that such filing, recordation and deposit will protect Agent's and Lessor's interests in such Unit and that no further filing, recording, depositing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interest of Agent and Lessor in such Unit.

Except as above provided, Lessee, so long as this Lease remains in effect, will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

(d) Records. Throughout the Term, Lessee shall keep accurate, complete and current records (complying with the requirements of the AAR and any Governmental Body with jurisdiction and any other regulations from time to time in force, with the recommendations of Lessee's mechanical department or any manufacturer or supplier of any Unit component, and with good commercial practice) of all maintenance carried out with respect to the Unit, and shall permit Lessor or Agent or any authorized representative of Lessor or Agent to examine such records at any reasonable time.

(e) Annual Reports. On or before March 31 in each year, commencing with the calendar year 1989, Lessee will cause to be furnished to Lessor and Agent an accurate statement, as of the preceding December 31, showing the amount, description and numbers of the Units (a) then leased hereunder, (b) that have suffered an Event of Loss during the preceding 12 months (or since the date of this Lease in the case of the first such statement) and (c) then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs and setting forth such other information regarding the condition and state of repair of the Units as Lessor or Agent may reasonably request, and stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by Section 7(c) have been preserved or replaced.

SECTION 8. Replacement of Parts; Alterations, Modifications and Additions.

(a) Replacement of Parts. Subject to Section 9(a), Lessee, at its own cost and expense, will promptly replace all

Parts of any Unit that may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit to use for any reason whatsoever except as otherwise provided in Section 8(c) with respect to obsolete Parts. In addition, Lessee may, at its own cost and expense, remove in the ordinary course of maintenance, service, repair, overhaul or testing, any Part of any Unit, whether or not worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use; provided that Lessee, except as otherwise provided in Section 8(c), will, at its own cost and expense, replace such Part as promptly as possible. All such replacement Parts shall be free and clear of all Liens and shall be in as good operating condition as, and shall have a useful life and fair market value and utility at least equal to, the Parts replaced assuming such replaced parts were in the condition and repair required to be maintained by the terms hereof. All Parts at any time removed from any Unit shall remain the property of Lessor and subject to the Lien of the Loan Agreement no matter where located, until such time as such Parts are replaced by Parts that have been incorporated or installed in or attached to such Unit and that meet the requirements for replacement Parts specified above. Immediately upon any replacement Part becoming incorporated or installed in or attached to any Unit as above provided, without further act, (i) title to such replaced Part shall thereupon vest in Lessee, free and clear of all rights of Lessor, and shall no longer be deemed a Part hereunder, (ii) title to such replacement Part shall thereupon vest in Lessor, and (iii) such replacement Part shall become subject to this Lease and be deemed part of such Unit for all purposes hereof to the same extent as the Part originally incorporated or installed in or attached to such Unit.

(b) Alterations, Modifications and Additions. Lessee shall make or cause to be made, at no expense to Lessor, such alterations and modifications in and additions to any Unit as may be required from time to time by Applicable Law or by the AAR and any Governmental Body having jurisdiction as a condition to the use of such Unit in ordinary commercial operation or otherwise required by Applicable Law; provided that if Lessee makes or causes to be made any alteration or modification in or addition to any Units which is so required but which is not necessary in order to comply with the health, safety or environmental standards of the AAR and any Governmental Body or organization having relevant jurisdiction and is not described in subparagraph (ii) of Section 4(4).03(C) of Revenue Procedure 75-21, 1975-1 C.B. 715, as modified by Revenue Procedure 79-48, 1979-2 C.B. 529, at Lessor's expense or for Lessor's account and within 10 days of payment for or in respect of such alteration, modification or addition, as the case may be, Lessee shall pay to Lessor as Supplemental Rent a net lump sum amount such that Owner's Net Economic Return,

after giving effect to such lump sum payment, shall be equal to what Owner's Net Economic Return would have been if such alteration, modification or addition had not been paid for by Lessor. Lessee, at its own expense and subject to compliance with the requirements of Revenue Procedure 79-48, may from time to time make such alterations and modifications and additions to any Unit as Lessee may deem desirable in the proper conduct of its business, so long as such alteration, modification or addition does not diminish the then fair market value, marketability, utility or remaining useful life of such Unit, or impair the condition, below the then fair market value, marketability, utility, remaining useful life and condition thereof immediately prior to such alteration, modification or addition assuming such Unit was then of the utility and in the condition required to be maintained by the terms of this Lease; but if the cost of such alteration, modification or improvement exceeds \$75,000 and is not required by Section 7 or 8 or the first sentence of this Section 8 and is not safety-related or severable, and is not described in subparagraph (ii) of Section 4(4).03(C) of Revenue Procedure 75-21, as modified by Revenue Procedure 79-48, such alteration, modification or addition shall not be made without the prior written consent of Lessor and Agent and otherwise in compliance with the requirements of Section 4(4).03 (of Revenue Procedure 75-21, as modified by Revenue Procedure 79-48). Title to each Part incorporated in a Unit as the result of any alteration, modification or addition made as contemplated in this Section 8 shall, except as provided in Revenue Procedure 79-48, without further act, vest in Lessor and become subject to this Lease. So long as no Lease Default or Lease Event of Default exists, or if a Lease Default exists but has not matured into a Lease Event of Default and Lessor has not withheld its consent (which Lessor agrees it will not unreasonably withhold) upon a written request from Lessee, Lessee may remove any such Part if (i) such Part is in addition to, and not in replacement of or in substitution for, any Part originally incorporated or intended to be so incorporated in a Unit at the time of delivery thereof hereunder or any Part in replacement of, or substitution for, any such original Part unless such original Part is removed and returned pursuant to Section 8(a), (ii) such Part is not required to be incorporated in the Units pursuant to Section 5 or the first sentence of Section 8(b) and (iii) such Part can be removed without diminishing or impairing the fair market value, utility, remaining useful life or condition which the relevant Unit would have had at such time had such alteration, modification or addition not occurred. Upon any such removal, title to such Part shall, without further act, vest in Lessee and no longer be deemed a Part hereunder. Any Part not so removed prior to the return to Lessor hereunder of the relevant Unit shall remain the property of Lessor and subject to this Lease.

(c) Removable Parts. Lessee shall provide Lessor not less than 180 days prior to the end of the Basic Term or any Renewal Term, or upon termination of the Lease pursuant to Section 14 hereof, with a list of all Parts which it is entitled to and intends to remove at such end date or termination. Lessor shall have the option, exercisable upon written notice given to Lessee not more than 90 days and not less than 30 days prior to the expiration of this Lease, or upon termination of this Lease under Section 14, to purchase for cash any and all such Parts which may be owned by Lessee at the expiration or other termination of this Lease for an amount equal to the Fair Market Sale Value thereof at such time.

(d) Liens on Parts. Lessee shall cause all Parts owned or removable by it to remain free and clear of all Liens except Permitted Liens.

SECTION 9. Loss, Destruction, Requisition, Etc.

Commencing at the time such risk with respect to a Unit passes to Lessor from Lessee and continuing until the termination of this Lease and the return by Lessee of such Unit to Lessor at the location designated by Lessor pursuant to and in accordance with the terms of Section 5, Lessee assumes the entire risk of loss for such Unit.

(a) Events of Loss. Upon the occurrence of an Event of Loss with respect to a Unit, Lessee shall forthwith (and, in any event, within 90 days after such occurrence) give Lessor and, unless it has received the Agent's Release Notice, Agent, written notice (specifying a date for receipt of insurance payments), of such Event of Loss. On or prior to the earlier of (i) the 90th day following the day of occurrence of such Event of Loss and (ii) the date of receipt of insurance payments in respect of such occurrence, Lessee shall pay to Agent (or, if it has received the Agent's Release Notice, Lessor) the sum of (A) the Stipulated Loss Value for the Unit computed using the Rent Payment Date next preceding the date on which such Event of Loss occurred (or, if such Event of Loss occurred on a Rent Payment Date, computed using such Rent Payment Date) (or, if such Event of Loss occurs before the first Rent Payment Date, computed using the value on the Stipulated Loss Value Table calculated for January 1, 1989, adjusted in each case as provided in Exhibit F to the Participation Agreement), (B) if such payment is made other than on a Rent Payment Date, interest on such Stipulated Loss Value at a rate per day equal to the daily equivalent, on a 360-day year basis, of the Post Default Rate for the number of days from the next preceding Rent Payment Date to the date of payment of such Stipulated Loss Value, excluding the Rent

Payment Date but including the date of payment, and (C) any Rent otherwise due and payable on or before such date.

Notwithstanding any Event of Loss of a Unit, Lessee shall continue making all rental and other payments in respect of such Unit until such Stipulated Loss Value and other amounts are paid. When such Stipulated Loss Value and all such other amounts are paid in full, (x) the obligation of Lessee to pay all succeeding payments of Basic Rent hereunder with respect to such Unit shall terminate and (y) Lessor shall be entitled to possession of the Unit suffering the Event of Loss and Lessor hereby appoints Lessee its agent, to dispose of such Unit or any component thereof, at the best price obtainable under the circumstances on an "as is, where is, and with all faults" basis in accordance with Lessee's normal procedures (Lessee itself may be the purchaser thereof). Lessee shall be entitled to the net proceeds of such sale after deductions of any cost or expense incurred in disposing of such Unit to the extent the net proceeds do not exceed the Stipulated Loss Value of such Unit, and shall pay any excess to Lessor. Lessor may, however, in lieu of the foregoing, transfer to Lessee its title to the Unit with respect to which such Event of Loss occurred.

(b) Application of Payments from Governmental Authorities or Others. Any payments (other than insurance proceeds the application of which is provided for in Section 10) received at any time by Lessor or by Lessee from any Governmental Body or other party with respect to an Event of Loss, whether resulting from the condemnation, confiscation, theft or seizure of, or requisition of title to or use of, any Unit or Part thereof (other than a requisition for use by the United States Government), or otherwise, if paid to Lessee shall be immediately paid over to Lessor; provided that Lessee will endeavor to have such payment made directly to Agent, until receipt by Lessee of the Agent's release notice, and in any event will be applied by Lessor as follows: so much of such payments as shall not exceed the Stipulated Loss Value required to be paid by Lessee pursuant to Section 9(a) shall be applied in reduction of Lessee's obligation to pay such Stipulated Loss Value, if not already paid by Lessee, or, if already paid by Lessee, shall be applied to reimburse Lessee for its payment of such Stipulated Loss Value, and the balance, if any, of such payment remaining thereafter will be retained by Lessor.

(c) Requisition for Use by United States Government of any Unit or Part Thereof. If the United States Government requisitions the use of a Unit or Part thereof during the Term in any manner not constituting an Event of Loss, all of Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that, if such Unit or such Part is not

returned by the United States Government prior to the end of the Term, Lessor, upon notice given not less than 30 days before the end of the Term, may elect that an Event of Loss hereunder be deemed to have occurred on the last day of the Term and Lessee shall, upon expiration of the Term, pay the Stipulated Loss Value with respect to such Unit on such date. All payments received by Lessor or Lessee from the United States Government for the use of such Unit or such Part during the Term shall be paid over to, or retained by, Lessee, provided no Lease Default or Lease Event of Default exists. All payments received by Lessor or Lessee from the United States Government for the use of such Unit or such Part after the Term shall be paid over to, or retained by, Lessor unless Lessor has elected to treat such requisition for use as an Event of Loss, in which case upon payment of Stipulated Loss Value by Lessee, all such payments shall be paid over to Lessee. Lessee shall promptly notify Lessor in writing of such requisition. In the event of any such requisition for use, Lessee agrees to use its best efforts to obtain reimbursement from the United States Government to Lessor for damages suffered by Lessor as a result of such requisition for use. Lessee agrees to notify Lessor promptly in writing in advance of the time when any negotiations between Lessee and the United States Government with respect to any such requisition shall commence and will consult with Lessor and, until receipt by Lessor and Lessee of the Agent's Release Notice, Agent regarding methods or procedures that are most appropriate to effect recovery from the United States Government for any damages suffered by Lessor, Agent, and Lender by reason of such requisition for use. This subsection (c) shall not be applicable to a Unit if an Event of Loss with respect to such Unit has occurred.

(d) Application of Payments Other than for an Event of Loss. Any payments received at any time by Lessor or by Lessee from any Governmental Body or other Person with respect to loss or damage to any Unit or Part not constituting an Event of Loss shall be applied in payment for repairs or for replacement property in accordance with Sections 7 and 8 and any balance remaining after compliance with such sections with respect to such damage or loss shall be paid over to or retained by Lessee if Lessor receives from Lessee, prior to making any such payment, certification from Lessee that the property so damaged or lost has been repaired or replaced in full and that the costs of such repairs or replacements have been paid in full. If such repairs or replacements are made pursuant to contracts requiring progress payments or are made by Lessee, such proceeds shall be paid over to Lessee from time to time upon appropriate certification by Lessee. Any such payments received for requisition for use of any Unit or part not constituting an Event of Loss shall be paid to Lessee.

(e) Application of Payments During Default. Any amount referred to in Section 9(b), (c) or (d) that is payable to Lessee shall not be paid to Lessee if at the time of such payment a Lease Default or Lease Event of Default exists but shall be held by Agent or, if Lessee and Lessor have received the Agent's Release Notice, Lessor, as security for the obligations of Lessee under this Lease and at such time as any such Lease Default or Lease Event of Default is not continuing, such amount, unless theretofore otherwise applied in exercise of Lessor's remedies hereunder, shall be paid to Lessee.

SECTION 10. Insurance.

(a) Public Liability and Property Damage Insurance. Lessee will maintain in effect, at its own expense public liability insurance and property damage insurance (including, without limitation, bodily injury and property damage liability, and contractual liability insurance) with respect to each Unit (i) in an amount equal to \$100,000,000 per occurrence or in such higher amounts as are prudent in the railroad industry, but in any event in amounts which are not less than the public liability and property damage insurance applicable to similar equipment on which Lessee carries insurance and (ii) otherwise of the type usually carried by corporations engaged in the same or a similar business similarly situated with Lessee, and owning or operating similar equipment and which otherwise covers risks of the kind customarily insured against by such corporations, with no deductibles or self-insurance in excess of \$20,000,000 per occurrence but which deductibles or self-insurance in all events shall not exceed such other deductibles and self-insurance as may be in effect with regard to other similar equipment owned or operated by Lessee, or such other amounts as Lessor, Agent and Lessee shall agree upon, provided it is expressly understood and agreed that any loss, cost or expense arising out of use of deductible or self-insurance shall be exclusively the cost and expense of the Lessee. Lessor, Agent and Lender shall not concurrently withhold consent to higher deductibles or self-insurance in light of Lessee's then financial condition.

(b) Insurance Against Loss or Damage. Lessee shall maintain in effect, at its own expense, "all-risk" insurance covering each Unit and "all-risk" coverage with respect to all Parts while removed from any Units to the extent Lessee carries such insurance on other locomotives owned or leased by Lessee.

(c) Policies. Lessee shall arrange for appropriate certification of coverages and forms of endorsements to be made promptly to Lessor and Agent by the underwriters of any policies carried in accordance with this Section 10 covering

any Unit and any policies taken out in substitution or replacement thereof. All such policies:

(1) shall be placed with insurers of recognized reputation and responsibility satisfactory to each of Lessor and Agent;

(2) shall be in full force and effect throughout any geographical areas in which the Units may be used at any time;

(3) shall be payable in Dollars in the United States;

(4) in any event, shall be in amount customary for Persons similarly situated to Lessee but in no event less than the amounts specified in paragraphs (a) and (b) of this Section 10;

(5) shall not impose liability on Lessor, Agent or any Lender to pay premiums for such insurance but shall provide for notice thereto of any nonpayment of premium and 10 days' opportunity to Lessor or Agent to pay such premium without impairing any policy;

(6) shall (a) insure Lessor, Agent and Lender regardless of any breach or violation of any warranty, declaration or condition contained in such policies, including without limitation improper or illegal operation of the Units, (b) be primary without right of contribution from any other insurance carried by Lessor, Agent or Lender; (c) waive any rights of subrogation and any rights of set off, counterclaim or deduction against each named insured; (d) provide for 30 days notice of cancellation, change, nonrenewal, expiration or lapse prior to the effectiveness thereof against Lessor, Agent or Lender;

(7) in the case of policies covering liability, shall name Lessor as owner of the Units and Agent and Lender as additional insureds and shall be endorsed to acknowledge and include the contractual liability of Lessee herein or in the Participation Agreement and in all other Operative Documents; and

(8) in the case of any policies covering loss or damage to any Unit, shall be made payable to Agent, until Lessee and Lessor receive the Agent's Release Notice, and thereafter to Lessor, and shall be endorsed to provide the foregoing coverages in forms reasonably satisfactory to Lessor, Agent and Lender.

(d) Application of Proceeds of Insurance. As between Lessor and Lessee it is agreed that all insurance payments

received under policies required to be maintained by Lessee hereunder as the result of the occurrence of an Event of Loss with respect to a Unit or Part, if paid to Lessee, will be immediately paid over to Lessor, and in any event will be applied by Lessor as follows:

if such payments are received with respect to an Event of Loss, so much of such payments remaining after reimbursement of Lessor (and, until receipt of the Agent's Release Notice, Agent) for costs and expenses as shall not exceed the Stipulated Loss Value required to be paid by Lessee pursuant to Section 9(a) and any past-due Rent shall be applied in reduction of Lessee's obligation to pay such Stipulated Loss Value and all such other amounts if not already paid by Lessee, or, if already paid by Lessee, shall be applied to reimburse Lessee for its payment of such Stipulated Loss Value and all such other amounts and the balance, if any, of such payment remaining thereafter will be paid over to, or retained by, Lessee for the loss of its leasehold interest hereunder; and

As between Lessor and Lessee (a) the insurance payment of any property damage loss constituting an Event of Loss, in excess of the Stipulated Loss Value plus unpaid accrued Rent, shall be paid to Lessee and (b) the insurance payments received under policies required to be maintained by Lessee hereunder with respect to any property damage to any Unit or Part not constituting an Event of Loss with respect thereto will be applied in the manner described in Section 9(d) upon evidence of completion of repairs. Any amount referred to in the next preceding sentence or in clause (i) or (ii) of the preceding paragraph that is payable to Lessee shall not be paid to Lessee if at the time of such payment a Lease Default or Lease Event of Default exists, but shall be held by Agent so long as the Lien of the Loan Agreement is in effect, and thereafter by Lessor as security for the obligations of Lessee under this Lease and at such time as there is not continuing any such Lease Default or Lease Event of Default such amount, unless theretofore otherwise applied in exercise of Lessor's remedies hereunder, shall be paid to Lessee.

(e) Reports, Etc. Lessee will furnish to Lessor, Owner, and, until receipt of the Agent's Release Notice, Agent not later than 15 days prior to initially obtaining any insurance required hereby, and 15 days prior to the expiration date or effective date of any material change to any insurance a certificate of insurance, in form and substance satisfactory to Lessor, Agent and Lender evidencing such insurance.

(f) Insurance for Own Account. Nothing in this Section 10 shall limit or prohibit Lessor, Lessee, Agent or any Lender from obtaining insurance for its own account and any

proceeds payable thereunder shall be payable as provided in the insurance policy relating thereto, provided that no such insurance may be obtained which would limit or otherwise adversely affect the coverage of an insurance required to be obtained or maintained pursuant to this Section 10.

SECTION 11. Inspection.

Lessor, Agent and each Lender and their respective authorized representatives, may inspect, (subject to Lessee's normal requirements regarding security), at their own expense, the Units and the books and records of Lessee with respect thereto, and make copies and extracts therefrom, and may discuss Lessee's affairs, finances and accounts relating to the Units and Lessee's operation with its officers, and Lessee shall furnish to Lessor statements accurate in all material respects regarding the condition and state of repair of the Units, all upon such reasonable notice and at such reasonable times during normal hours and as often as may be reasonably requested and, unless a Lease Default or Lease Event of Default exists, all at the expense of the Person requesting the same. Neither Lessor, Agent, nor any Lender shall have any duty to make any such inspection or inquiry or incur any liability or obligation by reason of not making any such inspection or inquiry. Lessee may condition any such inspection or inquiry upon the agreement by Owner, Lessor, Agent or each Lender to maintain the same standard of confidentiality with respect to information so obtained as a bank customarily applies in dealing with confidential information regarding its borrowers; or in the case of institutions other than banks, the same standard of confidentiality as customarily applied to such institution's own confidential information.

SECTION 12. Assignment.

Except as otherwise provided herein (including, without limitation, Section 7(b) hereof), Lessee will not, without the prior written consent of Lessor, relinquish possession of or sublease any Unit or otherwise assign any of its rights hereunder. Any such assignment, relinquishment or sublease made without such consent shall be void.

SECTION 13. Lease Events of Default.

The following events shall constitute "Lease Events of Default" (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any Applicable Law of any Governmental Body):

(a) Failure to Pay Rent. Lessee fails to make any payment of Basic Rent, Fair Market Sale Value or Stipulated Loss Value within five days after the date on which the same becomes due, or fails to make any other payment of Rent within ten days after the date when the same becomes due; or

(b) Failure to Carry Insurance; Merger; Transfers. Lessee fails to carry and maintain insurance on or in respect of any Unit in accordance with Section 10; or any merger, sale of assets or other transaction specified in Section 7.1(g) of the Participation Agreement occurs other than as permitted by such Section 7.1(g); or Lessee makes or permits any unauthorized assignment or transfer of this Lease, or any interest therein, or of the right to possession of the Units, or any thereof; or

(c) Failure to Perform Covenants. Lessee fails to perform or observe any covenant, condition or agreement to be performed or observed by it under any Operative Document (other than (i) a covenant, condition or agreement specified in clause (b) above or in clause (e) or (f) below and (ii) any covenant, condition or agreement to be performed under the Tax Indemnity Agreement), and either (i) if such covenant, condition or agreement pertains to the maintenance or modification of any Unit the breach of which does not constitute an Event of Loss, such failure continues unremedied for 30 days after the earlier of (A) the date Lessee obtains actual knowledge of such failure, and (B) the date Lessor gives Lessee, written notice of such failure, unless such failure cannot be cured with reasonable diligence on Lessee's part during such 30 days for reasons beyond Lessee's control in which case such 30 day period shall be extended for such additional period (not to exceed 90 more days, unless Lessor and Agent agree in writing to a longer period) as may be required with diligence and good faith to cure such failure, so long as Lessee is diligently and in good faith taking action to cure such failure; or (ii) if such covenant, condition or agreement does not so pertain to maintenance or modification of any such Unit, such failure continues unremedied for 30 days after the earlier of (A) the date Lessee obtains actual knowledge of such failure and (B) the date Lessor gives Lessee written notice of such failure; or

(d) Incorrect Representation or Warranty. Any representation or warranty made by Lessee herein or in any Operative Document other than the Tax Indemnity Agreement or in any document or certificate furnished to Lessor or Lenders in connection herewith or therewith or pursuant hereto or thereto proves incorrect in any material respect when made; or

(e) Failure to Record Documents. Any document or instrument required to be filed and/or recorded in accordance

with Section 7(a) or 16 is not duly filed and/or recorded at such time and in such place or places as required to perfect or continue the perfection of the interest of Lessor or Agent in and to any Unit; or

(f) Subchapter IV of Chapter 11. A case is commenced under Subchapter IV of Chapter 11 of the United States Bankruptcy Code (as Subchapter IV is now in effect or hereafter amended or replaced) by or against Lessee and, unless such case is dismissed, nullified or otherwise rendered ineffective (but only so long as such ineffectiveness continues), (i) within 60 days after such case is commenced (A) all of the obligations of Lessee under this Lease and the other Operative Documents are not duly assumed for the then unexpired Term in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such case so that such obligations have, to the fullest extent permitted by law, the same status and priority as to payment as obligations entitled to payment as administrative expenses pursuant to 11 U.S.C. 507(a)(a) (as such section is now in effect or hereafter may be amended or replaced) and (B) all Events of Default under Section 13 (a), (b), (c) or (e) are not cured, and (ii) thereafter, while the case is pending, the trustee or trustees appointed in such case fail to perform or cure in a timely fashion all other Events of Default under Section 13 (a), (b), (c) or (e) which may from time to time occur; or

(g) Other Bankruptcy. Any case or proceeding is commenced by or against Lessee for any relief or adjudication under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition or extension, or the Board of Directors of Lessee authorizes or takes any action in contemplation of the commencement or in furtherance of any such case or proceeding, and, if any such case or proceeding is commenced against Lessee, such case or proceeding is not dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay continues in force or such ineffectiveness continues) within 30 days after such case or proceeding is commenced; or Lessee makes a general assignment for the benefit of creditors; or Lessee admits in writing its inability to pay its debts generally as they become due, or is unable to pay or is generally not paying its debts as they become due; or a trustee, custodian or receiver is appointed for Lessee or for a substantial part of the property thereof and is not discharged within 30 days after such appointment; or

(h) Default; Seizures. Any material amount, to be determined in good faith by Lessor, of Lessee's property is subjected to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency; or

(i) Judgment. A final judgment for the payment of a material amount of money, to be determined in good faith by Lessor, is rendered against Lessee and the same remains undischarged for a period of 30 days during which execution of such judgment is not effectively stayed or bonded.

SECTION 14. Remedies.

Upon the occurrence of any Lease Event of Default and at any time thereafter so long as the same is continuing, Lessor may, at its option, declare this Lease to be in default; and at any time thereafter, Lessor may exercise the following rights and remedies with respect to all or any part of any Units:

(a) Return of Units. Cause Lessee, upon the written demand of Lessor and at Lessee's expense, to return promptly, and Lessee shall return promptly, all or such part of any Unit as Lessor may so demand to Lessor or its order in the manner and condition required by, and except as set forth below in this Section 14(a), otherwise in accordance with all the provisions of, Section 5 as if such Unit were being returned at the end of the Term, or Lessor, at its option, may enter upon the premises where all or any part of such Unit is located and take immediate possession of and remove the same together with any equipment which is not a Unit or Part thereof but which is installed on a Unit, subject to all of the rights of the owner, lessor, lienor or secured party with respect to such equipment, by summary proceedings or otherwise. For the purpose of delivering possession of any Unit or Units to Lessor as above required, Lessee shall at its own cost, expense and risk:

(i) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the AAR and all railroads to which any Unit or Units are interchanged) place such Units upon such storage tracks of Lessee as Lessor reasonably may designate;

(ii) permit Lessor to store such Units on such tracks at the risk of Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by Lessor; and

(iii) transport the same to any place on the lines of any railroad operated by it or any of its Affiliates or to any connecting carrier for shipment, all as directed by Lessor.

The assembling, delivery, storage and transporting of the Units 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, store and transport the Units. During any such storage period, Lessee will, at its own cost and expense, insure, maintain and keep the Units 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 or lessee of any such Unit, to inspect the same; provided, however, that Lessee shall not be liable, except in the case of negligence of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser or lessee, the rights of inspection granted under this sentence.

Lessee hereby waives any and all claims against Agent or Lessor and their agents for damages of whatever nature in connection with any retaking of the Units in any reasonable manner.

If any Unit is not assembled, delivered and stored, as hereinabove provided Lessee shall, in addition to all other amounts payable hereunder, pay to Lessor \$100.00 per Unit for each day thereafter until such Units are so assembled, delivered and stored. Nothing contemplated by this paragraph, including the payment by Lessee of any amounts pursuant hereto shall be deemed to relieve Lessee of its obligations to assemble, deliver and store the Unit or affect Lessor's rights and remedies with respect to such obligation.

Without in any way limiting the obligation of Lessee under the foregoing provisions of this Section 14(a), Lessee hereby irrevocably appoints Lessor as the agent and attorney-in-fact of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of any Unit to Lessor, to demand and take possession of such Unit in the name and on behalf of Lessee from whomever is in possession of such Unit at the time.

(b) Disposition of Units. With or without taking possession thereof, sell all or any part of any Unit at public or private sale, with or without notice, advertisement or publication except as specified in Section 14(g), for cash or upon credit, as Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle all or any part of such Unit as Lessor in its sole discretion may determine, free and clear of any rights of Lessee.

(c) Liquidated Damages. In order to preserve for Lessor the benefits intended by the transactions contemplated by the Operative Documents, Lessor may proceed with respect to any Unit under either clause (i), (ii) or (iii) below, but not under more than one of such clauses with respect to such Unit:

(i) Whether or not Lessor has exercised, or at any time exercises, any of its rights under paragraph (a) or (b) above with respect to any Unit, Lessor, by written notice to Lessee specifying a payment date, which shall be a Basic Rent Payment Date not earlier than 10 days from the date of such notice, in order to preserve for Lessor the benefits intended by the transactions contemplated by the Operative Documents, shall cause Lessee to pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice (together with interest, if any, at the Post Default Rate on the amount of any unpaid Rent and on such specified amount from the respective due dates to and including the actual date of payment): (i) any unpaid Rent for such Unit due on or prior to the payment date specified in such notice, (ii) any damages and expenses in addition thereto which Lessor sustained by reason of the breach of any covenant, representation or warranty contained in this Lease other than for the payment of Rent, and (iii) as damages for loss of a bargain and not as a penalty (in lieu of Basic Rent for the Units due after the payment date specified in such notice), whichever of the following amounts Lessor, in its sole discretion, shall specify in such notice: (A) an amount equal to the excess, if any, of (1) the Stipulated Loss Value for such Unit, computed as of the payment date specified in such notice, over (2) the aggregate Fair Market Rental Value of such Unit, or part thereof for the remainder of its economic useful life after such specified payment date, after discounting such aggregate Fair Market Rental Value semiannually to present worth as of such specified payment date at a rate of the weighted averages of the Effective Rates of the Loans per annum; or (B) an amount equal to the excess, if any, of (1) the sum of the Stipulated Loss Value for such Unit or part thereof over (2) the Fair Market Sale Value of such Unit as of the payment date specified in such notice; or (C) a sum, with respect to each Unit, which equals (x) the present value, at the time of such termination, of the entire unpaid balance of all Rent for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit minus (y) the then present value of the rentals which Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case by discounting at a rate equal to the above discount rate, compounded at the same frequency as rentals are paid hereunder, from the respective dates upon

which rentals would have been payable hereunder had the Lease not been terminated;

(ii) if Lessor, pursuant to paragraph (b) above, sells any Unit, Lessor may, if it so elects, cause Lessee to pay Lessor, and Lessee shall pay to Lessor, on the date of such sale, as damages for loss of a bargain and not as a penalty (in lieu of Interim or Basic Rent for the Unit due after the date on which such sale occurs), the sum of (A) any unpaid Rent for such Unit due on or prior to the date on which such sale occurs plus the amount of any excess of (1) (x) the Stipulated Loss Value of such Unit, computed as of the Rent Payment Date next preceding the date on which such sale occurs or the Delivery Date thereof, as the case may be, plus interest thereon at the Post Default Rate from such Rent Payment Date [or the Delivery Date thereof, as the case may be, to the date of such sale, or (y) if a sale occurs on a Rent Payment Date, the Stipulated Loss Value of such Unit as of such Rent Payment Date, over (2) the net proceeds of such sale; and (B) interest at the Post Default Rate on the amount of any such unpaid Rent and the amount of such deficiency from the respective due dates to and including the date of actual payment;

(iii) by notice to Lessee, Lessor may, in lieu of exercising its rights under paragraph (b) above, require Lessee to pay on demand to Lessor, and Lessee hereby agrees that it will so pay to Lessor, as damages for loss of a bargain and not as a penalty (in lieu of Rent for the Units due after the payment date specified in such notice) (A) any unpaid Rent for such Unit due on or prior to the payment date specified in such notice, plus (B) an amount equal to Stipulated Loss Value for such Unit computed as of the next preceding Rent Payment Date, or, if such payment date is a Rent Payment Date, as of such Rent Payment Date, plus interest at the Post Default Rate on the sum of clauses (A) and (B) from the payment date specified in such notice to and including the date of actual payment; and upon such payment of damages and the payment of all other Rent then due hereunder, Lessor shall proceed to exercise its reasonable best efforts promptly to sell such Unit and shall pay over to Lessee the net proceeds of such sale (after deducting from such proceeds all costs and expense whatsoever incurred by Lessor, Agent or any Lender in connection therewith and all other amounts which may become payable to Agent, any Lender or Lessor) up to the amount of Stipulated Loss Value actually paid.

(d) Termination. Lessor may terminate this Lease as to any or all of the Units and may exercise any other right or remedy which may be available to it under Applicable Law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof.

(e) Concerning Remedies. In addition to the other obligations of Lessee under this Section 14, Lessee shall be liable, except as otherwise provided in this Section 14, for any and all unpaid Rent due hereunder and any interest owing under Section 3(g) before, after or during the exercise of any of the foregoing remedies and for all legal fees (including the allocated time charges of internal counsel) and other reasonable costs and expenses incurred by reason of the occurrence of any Lease Event of Default or the exercise of Lessor's, Agent's or any Lender's remedies with respect thereto, including all reasonable costs and expenses incurred in connection with the repossession, storage and insurance of, or in the placing the Units in the condition required by Section 5. At any sale of the Units, or any part thereof pursuant to this Section 14, Agent may bid cash or the unpaid balance of any or all Loans (including all other amounts secured by the Loan Agreement), or any part or combination thereof, and thereby purchase such property. Except as otherwise expressly provided above, no remedy referred to in this Section 14 is intended to be exclusive, but each shall be cumulative (except as provided in Section 14(c) above) and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity, and the exercise or beginning of exercise of any one or more of such remedies shall not be deemed an election of such remedies and shall not preclude the simultaneous or later exercise by Lessor of any or all of such other remedies.

Upon the transfer by Lessor of its right, title and interest in and to any Unit to Lessee or a third party, as the case may be pursuant to Section 14(c), or upon a termination pursuant to Section 14(d), this Lease shall terminate with respect to such Unit except for the obligation of Lessee to pay the amounts set forth in this Section 14.

(f) Waivers. To the full extent that Lessee may lawfully agree, (i) Lessee agrees that it will not at any time claim or take the benefit of any appraisal, valuation, stay, extension, moratorium or redemption law now or hereafter in effect in order to prevent or delay the enforcement of this Lease or the absolute sale of the Units, or any part thereof or the possession thereof by any purchaser at any sale pursuant to this Section 14, and (ii) Lessee hereby waives the benefit of all such laws. No express or implied waiver by Lessor of any Lease Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Lease Event of Default.

SECTION 15. [Reserved]

SECTION 16. Further Assurances.

Lessee, will cause this Lease and the Loan Agreement to be duly filed and recorded in each case in accordance with Applicable Law. In addition, Lessee will, at its expense, promptly and duly execute and deliver to Lessor and to such other Persons as Lessor shall reasonably designate such further documents and assurances and take such further action as Lessor may from time to time reasonably request in order more effectively to carry out the intent and purpose of this Lease and to establish and protect (i) the rights and remedies created or intended to be created in favor of Lessor hereunder, and (ii) the Lien of the Loan Agreement, including, without, limitation, if requested by Lessor, at the expense of Lessee, the execution and delivery of supplements or amendments hereto, in recordable form subjecting to this Lease, any replacement Unit or Part and the recording or filing of counterparts hereof or thereof, or of financing statements with respect hereto, in accordance with the laws of such jurisdictions as Lessor may from time to time deem advisable.

SECTION 17. Notices.

Unless otherwise specifically provided herein, all notices required or permitted by the terms hereof shall be in writing, shall become effective upon receipt, may be given by mail, telegram, telex or any other electronic transmission and shall be addressed to the recipient at its respective address set forth in Annex I hereto or to such other address as such recipient may designate by notice to the parties hereto.

SECTION 18. Net Lease; No Set-Off, Counterclaim, Etc.

THIS LEASE IS A NET LEASE, AND LESSEE ACKNOWLEDGES AND AGREES THAT LESSEE'S OBLIGATION TO PAY ALL RENT HEREUNDER, AND THE RIGHTS OF LESSOR IN AND TO SUCH RENT, SHALL BE ABSOLUTE AND UNCONDITIONAL AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM OR RECOUPMENT ("ABATEMENTS") FOR ANY REASON WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ABATEMENTS DUE TO ANY PRESENT OR FUTURE CLAIMS OF LESSEE AGAINST LESSOR UNDER THIS LEASE OR OTHERWISE, AGAINST MANUFACTURER OR VENDOR, OR AGAINST ANY OTHER PERSON FOR WHATEVER REASON, INCLUDING, WITHOUT LIMITATION: (i) any default, misrepresentation, negligence, gross negligence, misconduct, willful misconduct or other action or inaction of any kind by Lessor, Agent, any Lender, any manufacturer or seller of any part of any Units, Lessee, or any other Person, whether under or in connection with this Lease, any other Operative Document or any other agreement relating to this

Lease or in connection with any unrelated transaction (including, without limitation, the failure of any Participant to furnish funds, or otherwise perform, in accordance with the terms of the Participation Agreement, the use by Lessor of proceeds of any such funds for any unauthorized purpose or the failure of Agent or any Lender or Lessor to otherwise perform in accordance with the Operative Documents); (ii) the insolvency, bankruptcy, reorganization or cessation of existence, or discharge or forgiveness of indebtedness of, any entity or Person referred to in clause (i) above or any other Person, including, without limitation, with respect to Agent and Lenders only, the disaffirmance or rejection of this Lease, including any rejection pursuant to Section 365(a) of the United States Bankruptcy Code (or any successor thereto); (iii) the invalidity, unenforceability, impossibility or illegality of performance of this Lease or any other agreement referred to in clause (i) above for any reason; (iv) any defect in the title, condition, design, operation or fitness for use of, or any Lien or other restriction of any kind upon, all or any part of any Units, any loss or destruction of, or damage to, any Unit, or any interruption in or cessation of the ownership, possession, operation or use of any thereof for any reason; (v) any restriction, prevention or curtailment of or interference with any Units or the use thereof or any part thereof for any reason whatsoever, including, without limitation, by any Governmental Body; (vi) any Applicable Law now or hereafter in force; (vii) any failure to obtain any required governmental consent for a transfer of rights or title to Lessor, Lessee or any other Person; (viii) any amendment or other change of, or any assignment of any rights under, any Operative Document, or any waiver or other action or inaction under or in respect of any Operative Document, or any exercise or non-exercise of any right or remedy under or in respect of any Operative Document, including, without limitation, the exercise of any foreclosure or other remedy under the Loan Agreement or this Lease or the sale of any Unit or any portion thereof or interest therein; or (ix) any other cause or circumstance foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, any present or future law notwithstanding. The parties hereto intend that all Rent payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times provided herein. Lessee waives, to the extent permitted by Applicable Law, any and all rights that it may now have or that at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease except in accordance with the express terms hereof. If for any reason this Lease is terminated in whole or in part by operation of law or otherwise except as specifically provided herein Lessee nonetheless agrees to pay to Lessor an amount equal to each Rent payment at the time such payment would have become due and payable in accordance with the terms hereof had

this Lease not been terminated in whole or in part. Each Rent payment made pursuant to this Lease by Lessee shall be final and Lessee will not seek to recover all or any part of such payment from Lessor or Agent for any reason. Nothing in this section shall be construed to preclude Lessee from bringing any suit at law or in equity which it would otherwise be entitled to bring for breach of any representation, warranty, covenant or duty hereunder or under the Participation Agreement.

SECTION 19. Interest of Lessor; Leasehold of Lessee; Security for Lessor's Obligation to Lenders.

Each Unit is and shall at all times remain the sole and exclusive property of Lessor, subject only to the Lien of the Loan Agreement (and subject to any other Permitted Liens). The only interest Lessee shall have in any Unit is that of a lessee hereunder.

To secure the Obligations under the Loan Agreement, Lessor has agreed in the Loan Agreement, among other things, to assign to Agent this Lease and to mortgage in favor of Agent all of Lessor's interest in the Units. Lessee has acknowledged and agreed to such assignment as set forth in Section 5 of the Participation Agreement.

SECTION 20. Noninterference.

This Lease shall be subject and subordinate to the Lien of the Loan Agreement, but so long as no Lease Event of Default exists Lessor covenants that neither it, nor any Person claiming through it will interfere with the rights of enjoyment and use of the Units by Lessee, or any other right of Lessee, under this Lease.

SECTION 21. Miscellaneous.

(a) Counterparts. This Lease may be executed in any number of counterparts and by the parties hereto on separate counterparts, each of which counterparts, shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same Lease. However, only the counterpart of this Lease containing the receipt therefor executed by Agent on the signature page hereof shall evidence the obligation of Lessee to pay amounts due and to become due hereunder. Accordingly, such counterpart of this Lease constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction), no other counterpart of this Lease constitutes

chattel paper (as so defined), and no security interest in this Lease may be created by the transfer or possession of any counterpart hereof other than the counterpart containing the receipt therefor executed by Agent on the signature page thereof. Although this Lease is dated as of the date first set forth above for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

(b) Severability, Etc. The invalidity of any one or more Sections or clauses of this Lease hereto or of any part hereof or thereof shall not affect the remaining portions of this Lease or any part hereof or thereof, respectively. If one or more of the Sections or clauses contained in this Lease or any part hereof is held by any court of law to be invalid, or operates to render this Lease invalid, this Lease shall be construed as if such invalid clause or clauses or Section or Sections or part or parts thereof had not been contained herein or therein. To the extent permitted by Applicable Law, Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(c) Effect of Headings. The section and other headings in this Lease and the table of contents are for convenience of reference only and shall not modify, define, expand or limit any of the terms or provisions hereof and all references herein to numbered sections, unless otherwise indicated, are to sections of this Lease.

(d) Maintenance of Loan Agreement Lien. Lessee agrees that it will maintain or cause to be maintained the Lien created by the Loan Agreement as a first Lien on the Units until it receives the Agent's Release Notice.

(e) Operation of Law; Amendments; Waivers. No term or provision of this Lease may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought and approved in writing by Lessor, and until Lessor and Lessee receive the Agent's Release Notice, Agent; provided that a waiver of any Lease Event of Default may be granted only by Agent until Lessor and Lessee receive the Agent's Release Notice.

(f) Successors and Assigns. This Lease and the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, Lessor and Lessee and their permitted successors and assigns.

(g) Bankruptcy Code. To the extent consistent with the provision of 11 U.S.C. §1168 or any analogous section of

the Federal bankruptcy laws, as amended from time to time, it is expressly agreed that the title of Lessor to each Unit and any right of Lessor to take possession of such Unit in compliance with the provisions of this Lease Agreement shall not be affected by the provisions of the Federal Bankruptcy laws, as amended from time to time, including without limitation, the provisions of 11 U.S.C. §362 or 363, or other analogous part of any superseding statute, as amended from time to time. Lessee represents that each Unit is rolling stock equipment within the meaning of 11 U.S.C. §1168.

SECTION 22. Lessor's Right to Perform for Lessee.

If Lessee fails to make any payment of Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor may itself (subject, however, to Section 16.1 of the Loan Agreement) make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest, to the extent permitted by Applicable Law, thereon, at the Post Default Rate from the date of the making of such payment or the incurring of such expenses by Lessor to the date of payment of such Supplemental Rent by Lessee, shall be deemed Supplemental Rent, payable by Lessee upon demand.

SECTION 23. Governing Law; Submission to Jurisdiction.

This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in any Units except as a lessee only. This Lease shall in all respects be governed by, and construed in accordance with, the laws of California, including all matters of construction, validity and performance, but without regard to conflicts of law provisions of California law; provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. §11303.

Lessee (a) hereby irrevocably submits to the non-exclusive jurisdiction of (i) any state or federal court in San Francisco, California in each case for the purposes of any suit, action or other proceeding arising out of this Lease or any other Operative Document, or the subject matter hereof or thereof, and (b) to the extent permitted by Applicable Law, hereby waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding, any claim that it is not personally subject to the jurisdiction

of the above-named courts, that its property is exempt or immune from execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is inconvenient or otherwise improper, or that any of the above-mentioned documents or the subject matter thereof may not be enforced in or by such courts. Final judgment against Lessee in any such suit shall be conclusive, and may be enforced in other jurisdictions by suit on the judgment, a certified or true copy of which shall be conclusive evidence of the fact and of the amount of any indebtedness or liability of Lessee therein described. Lessee further covenants and agrees that so long as this Lease or any other Operative Document is in effect, Lessee may be served with any legal process by personal service or by mail as provided in California Code of Civil Procedure §415.30 or by personal service pursuant to California Code of Civil Procedure §415.40 or any successor provision thereto.

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

LESSOR

SIGNAL CAPITAL CORPORATION,

By: S. F. Smith
Title: V.P. Credit

LESSEE

SOUTHERN PACIFIC TRANSPORTION
COMPANY

By: _____
Title: _____

Receipt of the original counterpart of the foregoing lease is hereby acknowledged in San Francisco, California this ____ day of _____, 19__.

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION, as
Agent

By: _____
Title: _____

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

LESSOR

SIGNAL CAPITAL CORPORATION,

By: _____
Title: _____

LESSEE

SOUTHERN PACIFIC TRANSPORTION
COMPANY

By: E. J. Deady
Title: Treasurer

Receipt of the original counterpart of the foregoing lease is hereby acknowledged in San Francisco, California this ____ day of _____, 19__.

BANK OF AMERICA NATIONAL TRUST
AND SAVINGS ASSOCIATION, as
Agent

By: _____
Title: _____

STATE OF NEW HAMPSHIRE)
) ss:
COUNTY OF ROCKINGHAM)

On this 29 day of March, 1988, before me personally appeared Stephen F. Smith, to me personally known, who being by me duly sworn, says that he is a Vice President of SIGNAL CAPITAL CORPORATION, a Delaware corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

Charles W. Cross
Notary Public **CHARLES W. CROSS, Notary Public**
My Commission Expires April 9, 1991
My commission expires _____

STATE OF OREGON)
) ss:
COUNTY OF _____)

On this _____ day of _____, 19__, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is a _____ of SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

Notary Public
My commission expires _____

STATE OF NEW HAMPSHIRE)
) ss:
COUNTY OF ROCKINGHAM)

On this _____ day of March, 1988, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is a _____ of SIGNAL CAPITAL CORPORATION, a Delaware corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

Notary Public

My commission expires _____

STATE OF OREGON)
) ss:
COUNTY OF MULTNOMAH)

On this 30th day of March, 1988, before me personally appeared E. F. Grady, to me personally known, who being by me duly sworn, says that he is a Treasurer of SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

Ogden H. Young
Notary Public

My commission expires 1-2-90

ANNEX I
TO
PARTICIPATION AGREEMENT,
LEASE AGREEMENT,
LOAN AND SECURITY AGREEMENT

Addresses for Notices

LESSEE:

Southern Pacific Transportation
Company
Southern Pacific Building
One Market Plaza
San Francisco, CA 94105

Attention: Treasurer

OWNER and LESSOR:

Signal Capital Corporation
505 14th Street
Suite 480
Oakland, CA 94617
Attention: Diann Patton

With a copy to:

Signal Capital Corporation
Liberty Lane
Hampton, NH 03842
Attn: Controller

AGENT:

Bank of America National
Trust and Savings Association
BankAmeriLease Group
10th Floor
Two Embarcadero Center
San Francisco, CA 94111
Attention: Contract Administration
#5816

LENDER:

Bank of America National
Trust and Savings Association
BankAmeriLease Group
28th Floor
Two Embarcadero Center
San Francisco, CA 94111
Attention: Vice President,
Western Region #5830

ANNEX II
TO
PARTICIPATION AGREEMENT,
LEASE AGREEMENT,
LOAN AND SECURITY AGREEMENT

DEFINITIONS

"AAR" - the Association of American Railroads, or any successor organization thereto.

"AAR Rules" - the rules and regulations and interpretations issued by the AAR.

"Acceptance Certificate" with respect to a Unit - an Acceptance Certificate for such Unit in the form of Annex 1 to Exhibit B to the Participation Agreement, executed and delivered by Owner and Lessee.

"Act" - the Interstate Commerce Act of 1887, as amended.

"Affiliate" of any Person - any other Person directly or indirectly controlling, controlled by, or under common control with such Person.

"Agent" - Bank of America National Trust and Savings Association, and its successors and assigns, in its capacity as agent under the Loan Agreement.

"Agent Liens" - Liens arising as a result of (i) claims or judgments against or affecting Agent not related to the transactions contemplated or expressly permitted by the Operative Documents; or (ii) acts or omissions of Agent not related to the transactions contemplated or expressly permitted by the Operative Documents; or (iii) Taxes imposed against Agent not indemnified against by Lessee pursuant to the Participation Agreement; or (iv) claims against Agent arising out of the voluntary transfer by Agent of its interest in a Unit, other than claims indemnified against by Lessee pursuant to the Participation Agreement and other than the Lien of the Loan Agreement or as a result of, or arising after the occurrence of, a Lease Event of Default or a Loan Event of Default; or (v) breaches by Agent of any of its duties and obligations under any Operative Documents.

"Agent's Office" - Agent's office at Two Embarcadero Center, 10th Floor, San Francisco, CA 94111, Attn: Contract Administration #5816, until notice of a change of address of such office is given by Agent.

"Agent's Release Notice" - the notice by Agent pursuant to Section 10 of the Loan Agreement that all amounts and all other Obligations owing under the Loan Agreement, under the Notes and under all other Operative Documents to Lender

have been paid and performed in full and the Lien of the Loan Agreement has been released.

"Amortization Schedule" - as defined in Section 2.2 of the Loan Agreement.

"Applicable Date" - (i) during the Interim Term, the first Rent Payment Date and (ii) thereafter, the Rent Payment Date preceding the date of the occurrence of a Lease Event of Default on which Basic Rent shall have been paid in full.

"Applicable Laws" - all applicable laws, rules and regulations, orders or judgments of the AAR or any Governmental Body.

"Appointment of Authorized Representative" - an Appointment of Authorized Representative substantially in the form of Exhibit B to the Participation Agreement, executed and delivered by Owner and consented by Lessee.

"Assigned Documents" - as defined in Section 3.1(b) of the Loan Agreement.

"Authorized Representative" - as defined in Section 2.4(b) of the Participation Agreement.

"Basic Rent" for each Unit - the rent therefor payable pursuant to Section 3(c) of the Lease.

"Basic Term" for each Unit - the period for which such Unit is leased pursuant to Section 3(a)(ii) of the Lease.

"Bill of Sale" with respect to a Unit - a Bill of Sale for such Unit in the form of Exhibit B to the Lease, executed and delivered by Lessee.

"Business Day" - any day (other than a Saturday or Sunday) on which commercial banking institutions in New York, New York and San Francisco, California, are generally open for business.

"Claim" - as defined in Section 8.1 of the Participation Agreement.

"Closing" - as defined in Section 2.4(a) of the Participation Agreement.

"Code" - the Internal Revenue Code of 1986, as amended.

"Collateral" - as defined in Section 3.1 of the Loan Agreement.

"Commercial Operation" - with respect to each Unit the operation of such Unit in continuous commercial operation at its design capacity and 3600 rated continuous engine horsepower, in compliance with manufacturer recommendations and operating requirements of Applicable Law, and in continuous (except for routine maintenance recommended by the manufacturer thereof) operation in Lessee's business.

"Commitment" of Lenders (as a group), and Owner, with respect to each Unit - the lesser of the percentages of Lessor's Cost therefor or the Dollar amounts set forth below:

| | | |
|---------|-------|--------------|
| Lenders | 80.0% | \$493,200.00 |
| Owner | 20.0 | 123,300.00 |

"Covered Tax Law Change" - all amendments, modifications, deletions or changes in or to the Code, the issuance of any proposed, temporary or final regulations pursuant thereto, the issuance of any administrative pronouncements of the Internal Revenue Service (including, without limitation, Revenue Rulings and Revenue Procedures), or any judicial decision.

"Delivery Date" for each Unit - the date of the Acceptance Certificate describing such Unit, which date shall be the date such Unit is delivered to, and purchased by Owner under the Participation Agreement and delivered to and Leased by Lessee under the Lease, as such date is set forth in such Acceptance Certificate.

"Delivery Notice" - as defined in Section 2.3(a) of the Participation Agreement.

"Delivery Site" of a Unit - the place at which Lessee tenders physical delivery to Owner, as set forth in the Delivery Notice.

"Disbursement Agreement" - the Agreement between Owner and Disbursing Bank, substantially in the form of Exhibit A to the Participation Agreement.

"Disbursing Bank" - the bank, designated in Lessee's notice pursuant to Section 2.3(a) of the Participation Agreement, which agrees to hold Owner's funds pending authorization by Owner (a) to disburse such funds to Lessee pursuant to Section 2.3(c) of the Participation Agreement or (b) to invest or return the funds as provided in Section 2.6 of the Participation Agreement.

"Dollars" and "\$" - dollars in lawful money of the United States of America.

"Effective Rate" - with respect to each Loan, a rate per annum equal to 1.5% in excess of the rate for six-year United States Treasury obligations in effect at the close of business on the Business Day preceding the date the Loan is made.

"ERISA" - the Employment Retirement Income Security Act of 1974, as amended.

"Event of Loss" - any of the following events with respect to any property leased under the Lease: (i) loss of such property or the use thereof due to theft or disappearance for more than 45 days; (ii) loss of such property or the use thereof due to destruction, damage beyond repair or rendition of such property permanently unfit for normal use by Lessee for any reason whatsoever; (iii) any damage to such property which should or does result in the receipt of insurance proceeds with respect to such property on the basis of a total loss or constructive total loss; (iv) the condemnation, taking, confiscation or seizure of, or requisition of title to such property, (v) the condemnation, taking, confiscation or seizure of the use of such property for a period in excess of 90 days other than a temporary requisition for use by the United States Government that does not continue beyond the end of the Term provided that pursuant to such requisition the United States Government agrees to make payments sufficient in amount for the discharge of the obligations of Lessee under the Lease to pay Rent, or Lessee provides other security reasonably acceptable to Owner and Agent if the United States Government does not so agree to make such payments; (vi) as a result of any rule, regulation, order or other action (generally applicable to equipment of the same type as the Units) by any Governmental Body (including any court) having jurisdiction, the use of the Unit in the normal course of Lessee's Commercial Operation thereof is prohibited for a period of six consecutive months, notwithstanding Lessee's diligent and continuous undertaking of all steps necessary or desirable to permit the normal Commercial Operation of such Unit and compliance with all of the other provisions of this Lease, including Sections 7 and 8; (vii) requisition of such property by any Governmental Body other than the United States, or (viii) with respect to any Unit, the operation or location thereof, while under requisition for use by a United States Governmental Body, in any area excluded from coverage by any insurance policy in effect with respect thereto required by Section 10 of the Lease if Lessee is unable to obtain indemnity or insurance in lieu thereof from the Governmental Body.

"Excepted Payments and Rights" - all of Owner's right, title and interest in and to any of the following described payments, rights, property and privileges: (i) all rights to or payments in respect of any Indemnity in favor of Owner or its officers, employees, successors and assigns, under Sections 8.1 and 8.2 of the Participation Agreement or under the Tax Indemnity Agreement; (ii) all rights to or proceeds of third party public liability and property damage insurance payable as a result of insurance claims made, or losses suffered, by Owner; (iii) proceeds of insurance maintained with respect to any Unit by Owner and not required to be maintained by Lessee under the Lease; (iv) payments of Supplemental Rent in respect of Transaction Costs and certain fees and expenses as provided in Section 9 of the Participation Agreement payable to Owner; (v) Lessor's reserved rights in respect of the Collateral and the Assigned Documents under Section 16.4 of the Loan Agreement; and (vi) to the extent not prohibited under Sections 4.2 and 16.2 of the Loan Agreement, the rights of Owner to demand, collect, sue for or otherwise enforce or exercise their rights in respect of any of the foregoing against Lessee or any other Person.

"Fair Market Rental Value" - for each Unit, the fair market rental value, as determined by agreement between Owner and Lessee, or if Owner and Lessee cannot agree, as determined by an Independent Appraisal, except that if a determination is being made for the purpose of Section 14 of the Lease, the Independent Appraisal shall be made solely by the nationally recognized independent appraiser appointed by Owner.

"Fair Market Sale Value" - for each Unit, the fair market sale value, as determined by agreement between Owner and Lessee, or if Owner and Lessee cannot agree, as determined by an Independent Appraisal, except that if a determination is being made for the purpose of Section 14 of the Lease, the Independent Appraisal shall be made solely by the nationally recognized independent appraiser appointed by Owner.

"Federal Reserve Board" - the Board of Governors of the Federal Reserve System of the United States of America or any successor agency or board at the relevant time performing the functions of the Federal Reserve Board.

"FRA" - the Federal Railroad Administration of the United States, and any successor agency thereto.

"Governmental Body" - the FRA and any other federal, state, municipal or other government or governmental subdivision, department, commission, board, bureau, court, legislature, agency, instrumentality or authority, of any country, including, without limitation, the United States of

America, domestic or, to the extent binding under federal law on any Person or any Unit, international or transnational.

"ICC" - the Interstate Commerce Commission of the United States, or any successor agency thereto.

"Indemnified Person" - each of Agent, each Lender and Owner and their respective successors, assigns, directors, servants, employees and agents and any Affiliate of any of the foregoing.

"Indemnity Payment" - all obligations of Lessee to indemnify any Person pursuant to Section 8.1 or 8.2 of the Participation Agreement or the Tax Indemnity Agreement.

"Independent Appraisal" - an appraisal mutually agreed to by two nationally recognized independent appraisers, one of which shall be chosen by Owner and one by Lessee, or, if such appraisers cannot agree on the amount of such appraisal, an appraisal arrived at by the appointment of a third nationally recognized independent appraiser and the averaging of appraisals as set forth in this paragraph. The third appraiser shall be chosen by the mutual consent of such two appraisers; provided that, if either party fails to appoint an appraiser within 30 days after a written request to do so by the other party, or if the two appraisers cannot agree on the amount of such appraisal and fail to appoint a third appraiser within 30 days after the date of the appointment of the second of such appraisers, then either party may apply to any court having jurisdiction to make such appointment. An "Independent Appraisal" of the fair market sale value or fair market rental value of the property being appraised shall mean an appraisal which assumes that such property is unencumbered by the Lease or any renewal option or purchase option, which assumes that such property has been maintained in all respects in accordance with the Lease (whether or not it is in fact in such condition) and which disregards the actual condition if not so maintained, which would be obtained in an arm's-length transaction between an informed and willing lessor or seller, as the case may be, and an informed and willing lessee or purchaser, as the case may be, both under no compulsion to lease or sell and purchase, as the case may be. The appraisal determined by each of the three appraisers shall be averaged and the appraisal furthest from the average of the three appraisals shall be disregarded. The appraisal determined by each of the two remaining appraisers shall be averaged and such average shall be the appraised fair market sale value or fair market rental value of such property. Lessee shall pay for all appraiser fees except in connection with a purchase or renewal at the end of the Term, in which case Owner and Lessee shall each bear the fees

of the appraiser it appoints, and shall share equally the fees of the third appraiser, if necessary.

"Interim Interest" - the first installment of interest on the Loans payable pursuant to Section 2.3 of the Loan Agreement.

"Interim Term" - for each Unit, the period for which such Unit is leased pursuant to Section 3(a)(i) of the Lease.

"Lease" - the Lease Agreement dated as of March 30, 1988, between Owner and Lessee (the "Lease Agreement"), as modified, amended or supplemented from time to time pursuant to the provisions thereof.

"Lease Default" - an event or condition which, with notice or lapse of time or both, would constitute a Lease Event of Default.

"Lease Event of Default" - as defined in Section 13 of the Lease.

"Lender" - Bank of America National Trust and Savings Association and its successors or assigns, as the initial Lender under, and any other Person becoming a Lender pursuant to, the Loan Agreement and its successor and assigns.

"Lender Liens" - Liens arising as a result of (i) claims or judgments against or affecting any Lender not related to the transactions contemplated or expressly permitted by the Operative Documents or (ii) acts or omissions of any Lender not related to the transactions contemplated or expressly permitted by the Operative Documents; or (iii) Taxes imposed against any Lender not indemnified against by Lessee pursuant to the Participation Agreement; or (iv) claims against any Lender arising out of the voluntary transfer by any Lender of any of its interest in a Unit, other than claims indemnified against by Lessee pursuant to the Participation Agreement and other than the Lien of the Loan Agreement, or as a result of or arising after the occurrence of a Lease Event of Default or a Loan Event of Default; or (v) breach by any Lender of any of its duties and obligations under any Operative Document.

"Lessee" - Southern Pacific Transportation Company, a Delaware corporation, and its permitted successors and assigns.

"Lessee Liens" - any Lien on or with respect to any Unit, Owner's title thereto or interest therein or in the Lease or any interest of Owner in any Rent, except Liens described in clauses (a), (b) and (d) of Section 6 of the Lease.

"Lessor" - Owner and its permitted successors and assigns, as Lessor under the Lease.

"Lessor Liens" - Liens arising as a result of (i) claims or judgments against or affecting Owner not related to the transactions contemplated or expressly permitted by the Operative Documents; or (ii) acts or omissions of Owner not related to the transactions contemplated or expressly permitted by the Operative Documents; or (iii) Taxes imposed against Owner not indemnified against by Lessee pursuant to the Participation Agreement; or (iv) claims against Owner arising out of the voluntary transfer by Owner of any of its interest in a Unit, other than claims indemnified against by Lessee pursuant to the Participation Agreement and other than the Lien of the Loan Agreement; or (v) breaches by Owner of any of its duties and obligations under any Operative Documents.

"Lessor's Cost" - for each Unit, the purchase price charged for such Unit by Lessee as specified by Lessee in the Delivery Notice, pursuant to Section 2.3(a) of the Participation Agreement, such sum not to be greater than \$616,500.00 for a Unit.

"Lien" - any mortgage, pledge, lien, charge, encumbrance, lease, exercise of rights, security interest or claim of any nature whatsoever.

"Loan" - any one of up to 20 loans made or to be made by each Lender to Owner under the Loan Agreement and the Participation Agreement. "Loans" means all such loans collectively.

"Loan Agreement" - the Loan and Security Agreement dated as of March 30, 1988, among Owner, Lender and Agent (the "Loan and Security Agreement"), as amended, modified or supplemented from time to time pursuant to the provisions thereof.

"Loan Default" - an event or condition which, with notice or lapse of time or both, would constitute a Loan Event of Default.

"Loan Event of Default" - as defined in Section 6 of the Loan Agreement.

"Loan Transfer Notice" - a notice substantially in the form of Exhibit E to the Participation Agreement executed by Agent and a Person becoming a Lender pursuant to the Loan Agreement.

"Majority in Interest of Noteholders" - as of a particular date of determination, the holder or holders of not less than 51% in aggregate principal amount of all Notes at the time outstanding (excluding any Notes then held by Lessee, Owner or an Affiliate of either thereof, unless Lessee, Owner or such Affiliate owns all of the outstanding Notes).

"Net Economic Return" - as defined in Exhibit F to the Participation Agreement.

"Note" - a note substantially in the form of Exhibit A to the Loan Agreement, delivered by Owner to Bank of America National Trust and Savings Association pursuant to Section 2.10 of the Loan Agreement, including any note delivered in exchange therefor or in replacement thereof pursuant to Section 2.10(c) or 2.10(d) of the Loan Agreement.

"Noteholder" - the holder of any Note.

"Obligations" - as defined in Section 3.1 of the Loan Agreement.

"Officer's Certificate" - with respect to any corporation, a certificate of a Responsible Officer of such corporation.

"Operative Documents" - the Participation Agreement, the Lease, the Tax Indemnity Agreement, the Loan Agreement, the Acceptance Certificates, the Bills of Sale, the Notes, the Support Agreement and all other documents, certificates and instruments executed and delivered pursuant thereto.

"Owner" - Signal Capital Corporation, a Delaware corporation, and its permitted successors and assigns.

"Participants" - Owner and each Lender.

"Participation Agreement" - the Participation Agreement dated as of March 30, 1988, among Lessee, Lender, Owner and Agent whereby, among other things, Owner and Lender agree to participate in the payment of specified portions of Lessor's Cost for each Unit as therein provided.

"Parts" - any and all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment constituting a part of a Unit, of whatever nature.

"Payment Date" - each of the Rent Payment Dates set forth in the schedule to Exhibit A to the Loan Agreement and the schedule to each Note.

"Permitted Liens" - those Liens permitted by the "except" clause of Section 6 of the Lease.

"Person" - any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or Governmental Body.

"Post Default Rate" - with respect to each Loan, a rate per annum equal to the lower (a) of 2.0% per annum in excess of the highest Effective Rate for any Loan or (b) the maximum rate of interest permitted by Applicable Law.

"Proposed Delivery Date" - as defined in Section 2.3 of the Participation Agreement.

"Renewal Term" - the term, if any, permitted by Section 3(a) of the Lease.

"Renewal Rent" - the rent payable during any Renewal Term pursuant to Section 3(d) of the Lease.

"Rent" - Basic Rent, Renewal Rent and Supplemental Rent.

"Rent Payment Date" - the last day of each of the first 17 full semi-annual periods during the Term, as more particularly set forth in Sections 3(b) and 3(c) of the Lease.

"Rent Adjustment" - any adjustment to Rent pursuant to Section 3(h) of the Lease.

"Responsible Officer" - in the case of any corporation or other entity, the Chairman of the Board of Directors, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary, or any person holding one or more of such offices.

"Specifications" for the Units - the written construction, component and performance specifications for such Units delivered to Lessor and Lender, and certified by Lessee as of the first Delivery Date.

"Stipulated Loss Value" for each Unit as of any date of computation - the greater of (i) Lessor's Cost for such Unit multiplied by the percentage specified in the table in Exhibit B to the Lease (the "Stipulated Loss Value Table") for the next preceding Basic Rent Payment Date or, during the Interim Term and the first semi-annual period of the Basic Term, the first Basic Rent Payment Date and other amounts outstanding under the Loan Agreement properly allocable thereto, or (ii) an amount sufficient to pay in full, as of the date of payment or

computation thereof, the aggregate unpaid principal amount of the Loans relating to such Unit and outstanding on such date of payment or computation, together with the accrued and unpaid interest thereon, and other amounts outstanding under the Loan Agreement properly allocable thereto, to the date of payment or computation, plus the difference between the amount in clause (i) and the aggregate unpaid principal amount of the Loans.

"Supplemental Rent" - all amounts, liabilities and obligations (other than Basic Rent, and Renewal Rent) which Lessee assumes or agrees to pay under the Lease or under any Operative Document to Owner, or any other Person including, without limitation, Stipulated Loss Value, indemnities, any interest payable with respect to payments pursuant to Section 3(g) of the Lease (to the extent permitted by Applicable Law), any insurance premium paid by any Participant in respect of insurance required to be carried by Lessee under the Lease and damages for breach of any covenants, representations, or warranties of Lessee under any Operative Document.

"Support Agreement" - that certain Support Agreement dated as of March 30, 1988 between Lessor and Lessee.

"Taxes" or "Tax" - as defined in Section 8.2 of the Participation Agreement.

"Tax Indemnity Agreement" - the Federal Income Tax Indemnity Agreement dated as of March 30, 1988, between Owner and Lessee.

"Term" - the term, in respect of each Unit, for which such Unit is leased pursuant to Section 3(a) of the Lease (including any Renewal Term).

"Transaction Costs" - the costs and expenses to be paid by Lessee pursuant to Section 9.1 of the Participation Agreement.

"Transferee" - as defined in Section 11.1 of the Participation Agreement.

"United States Government" - the government of the United States of America or any agency or instrumentality thereof.

"Units" - as defined in Paragraph A of the Introduction to the Participation Agreement.

DESCRIPTION OF UNITS

Forty high horsepower (3600 HP) 6-axle SD45-T2 General Motors (Electric Motive Division) diesel electric locomotives (AAR Mechanical Designation A Units (C-C) 3600 HP), together with all accessories, parts and appliances installed thereon or belonging thereto, and all logs, manuals and records relating thereto, and all substitutions, replacements and renewals for any and all thereof, which locomotives had and have the following reporting marks and road numbers:

1. OLD MARKS AND NUMBERS:

| | |
|----------|----------|
| SP 9166 | SSW 9162 |
| SP 9175 | SSW 9164 |
| SP 9182 | SSW 9261 |
| SP 9185 | SSW 9262 |
| SP 9187 | SSW 9264 |
| SP 9188 | SSW 9268 |
| SP 9189 | SSW 9272 |
| SP 9190 | SSW 9274 |
| SP 9192 | SSW 9281 |
| SP 9209 | SSW 9283 |
| SP 9214 | SSW 9284 |
| SP 9225 | SSW 9287 |
| SP 9227 | SSW 9389 |
| SP 9230 | SP 9350 |
| SP 9236 | SSW 9397 |
| SP 9259 | |
| SP 9320 | |
| SP 9326 | |
| SP 9352 | |
| SP 9357 | |
| SP 9369 | |
| SP 9370 | |
| SSW 9157 | |
| SSW 9158 | |
| SSW 9161 | |

2. NEW MARKS AND NUMBERS:

SP6829-SP6868, inclusive

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS:

SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation ("SELLER"), is the owner of the full legal and beneficial title to _____ General Motors SD45-T2 railroad locomotives currently and formerly bearing the following reporting marks and road numbers:

| <u>Former Numbers</u> | <u>Current Numbers</u> |
|-----------------------|------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

and all appliances, parts, instruments, appurtenances, accessories, furnishings, logs, manuals and/or other equipment or property installed on or attached or belonging to said locomotives (the "Equipment").

For and in consideration of the sum of \$10.00 and other valuable consideration, receipt of which is hereby acknowledged, SELLER does hereby grant, convey, transfer, bargain and sell, deliver and set over pursuant and subject to the terms and conditions of the Participation Agreement dated March 30, 1988, all right, title and interest in and to the above-described Equipment unto SIGNAL CAPITAL CORPORATION, a Delaware corporation ("BUYER"); and BUYER hereby accepts such right, title and interest.

SELLER hereby warrants to BUYER, its successors and assigns that Seller has legal title to and beneficial ownership of, and good and lawful right to sell the Equipment and that the Equipment is free and clear of any and all claims, liens, security interest and other encumbrances of any kind whatsoever there is hereby conveyed to BUYER on the date hereof good and marketable title to the aforesaid Equipment, free and clear of all liens, encumbrances and rights of others, and that it will warrant and defend such title forever against all claims and demands whatsoever.

SELLER hereby assigns to Buyer all of Seller's rights, to the extent relating to the Equipment, against the manufacturer or any vendor or supplier of the Equipment, including any warranty express or implied, as to title, materials, workmanship, design or patent infringement or otherwise including, without limitation, all claims for damages and any and all rights of Seller to compel performance of the terms of any bill of sale or other purchase document relating to the Equipment.

IN WITNESS WHEREOF, SELLER has caused this instrument to be executed and its seal to be affixed this ___ day of _____, 1988.

SOUTHERN PACIFIC TRANSPORTATION
COMPANY

By: _____
Title: