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THE CONNECTICUT BANK AND TRUST COMPANY, N.A.

RECORDATION NO. **13930**
Filed 1425

RECORDATION NO. **13930-A**
Filed 1425

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3-0321061

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

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FEB 1 12 59 PM '83
FEE OPERATION

No. _____
Date FEB 1 1983
Fee \$ **100.00**

February 1 , 1983

ICC Washington, D. C.

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Sir or Madam:

Enclosed for recordation with the Interstate Commerce Commission pursuant to the provisions of Section 11303 of Title 49 of the United States Code are one original and two counterparts of each of the following documents:

1. Mortgage, Loan and Security Agreement dated as of January 15, 1983 ("Mortgage") between The Connecticut Bank and Trust Company, N.A., not in its individual capacity, except as expressly provided therein, but solely as trustee under a Trust Agreement dated as of January 15, 1983 between it and Lifton Equity Investments, Inc., as beneficiary thereunder, as Borrower ("Borrower"), and Sun Life Assurance Company of Canada (U.S.), as Lender ("Lender"), which evidences, among other things, the mortgage and assignment as security by the Borrower to the Lender of the Borrower's right, title and interest in, to and under (i) certain railroad cars described in Exhibit A to the Mortgage and all proceeds thereof and (ii) an Equipment Lease dated as of January 15, 1983 between the Borrower, as Lessor, and St. Louis Southwestern Railway Company, as Lessee ("Lessee"), and all payments to become due thereunder.

2. Equipment Lease dated as of January 15, 1983 ("Lease") between the Borrower, as Lessor ("Lessor"), and the Lessee, which evidences, among other things, the lease from the Lessor to the Lessee of railroad cars used or intended for use in connection with interstate commerce.

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

Counterpart - James McAllister

1. The Connecticut Bank and Trust Company, N.A. (having its address at One Constitution Plaza, Hartford, Connecticut 06115), as Mortgagor under the Mortgage and as Lessor under the Lease, not in its individual capacity, except as expressly provided therein, but solely as trustee under a Trust Agreement dated as of January 15, 1983 between it and Litton Equity Investments, Inc. (having its address at 600 Summer Street, Stamford, Connecticut 06904), as beneficiary under said Trust Agreement.

2. Sun Life Assurance Company of Canada (U.S.) (having its address at One Sun Life Executive Park, Wellesley, Massachusetts 02181), as Mortgagee under the Mortgage.

3. St. Louis Southwestern Railway Company (having its address at Southern Pacific Building, One Market Plaza, San Francisco, California 94105), as Lessee under the Lease.

The equipment covered by the enclosed documents consists of 20 Eight-Unit IMPACK Articulated Skeletal Flatcars manufactured by Itel Corporation, Rail Division, bearing the road numbers of St. Louis Southwestern Railway Company SSW-90059 through SSW-90078, inclusive, and 9 Four-Unit IMPACK Articulated Skeletal Flatcars, manufactured by Itel Corporation, Rail Division, bearing the road numbers of St. Louis Southwestern Railway Company SSW-99050 through SSW-99058, inclusive. The equipment referred to in this paragraph bears the legend "THE CONNECTICUT BANK AND TRUST COMPANY, AS TRUSTEE: LESSOR AND OWNER: AND SUN LIFE ASSURANCE COMPANY OF CANADA U.S.: SECURED PARTY AND LIEN HOLDER UNDER A MORTGAGE SECURITY AND LOAN AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20C".

Also enclosed is a check in the amount of \$100 for payment to the Interstate Commerce Commission of the required filing fees.

Please accept the enclosed documents for recordation and make the appropriate entries to the index of documents and to the index of parties. Please return the original of each of the enclosed documents, stamped with a recordation number, together with the usual letter of the Commission confirming recordation, to the delivering messenger of Mudge Rose Guthrie & Alexander, 20 Broad Street, New York, New York 10005, for transmittal to the undersigned.

Very truly yours,

**THE CONNECTICUT BANK AND TRUST
COMPANY, N.A.**, not in its
individual capacity but
solely as trustee under the
Trust Agreement to which
reference is hereinbefore
made

By *J. Quaker*
Title: *Asst. Secretary*

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Mudge Rose Guthrie
& Alexander
20 Broad Street
New York, N. Y. 10005

February 1, 1983

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 2/1/83 at 1:05PM, and assigned re-
recording number(s). 13930, & 13930-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 13930
FILED 1425

FFB - 1 1983 - 1 05 PM

INTERSTATE COMMERCE COMMISSION

MORTGAGE, LOAN AND SECURITY AGREEMENT

Dated as of January 15, 1983

DUPLICATE

between

DUPLICATE

THE CONNECTICUT BANK AND TRUST COMPANY, N.A.,
not in its individual capacity, except as expressly provided
herein, but solely as trustee under a Trust Agreement dated as of
January 15, 1983 between it and Litton Equity Investments, Inc.,
as beneficiary,
as Borrower

and

SUN LIFE ASSURANCE COMPANY OF CANADA (U.S.),
as Lender

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MORTGAGE, LOAN AND SECURITY AGREEMENT

MORTGAGE, LOAN AND SECURITY AGREEMENT dated as of January 15, 1983 between **THE CONNECTICUT BANK AND TRUST COMPANY, N.A.**, a national association, not in its individual capacity, except as expressly provided herein, but solely as trustee (the **Borrower**), and **SUN LIFE ASSURANCE COMPANY OF CANADA (U.S.)**, a Delaware corporation (the **Lender**).

WHEREAS, the Borrower intends to purchase certain equipment and to lease such equipment to St. Louis Southwestern Railway Company pursuant to an Equipment Lease dated as of January 15, 1983;

WHEREAS, in order to induce the Borrower to enter into the Equipment Lease, Southern Pacific Transportation Company, a Delaware corporation (the **Contingent Lessee**), has entered into a Contingent Lease Agreement dated as of January 15, 1983 with the Borrower, the Lender and Litton Equity Investments, Inc. (the **Contingent Lease Agreement**), pursuant to which the Contingent Lessee has agreed to take certain actions, upon request of the Borrower, during the occurrence and continuance of an Event of Default under the Equipment Lease;

WHEREAS, in order to finance a portion of the purchase price of the equipment, Loans (as hereinafter defined) will be made pursuant to the Participation Agreement (as hereinafter defined), which Loans will be represented by promissory notes substantially in the form of Exhibit C hereto (the **Notes**);

WHEREAS, the Borrower, pursuant to this Loan Agreement, agrees to make payments to the Lender in amounts sufficient to pay the principal of and premium, if any, and interest on the Notes, the liability of the Borrower being limited to the income and proceeds from the Estate (as hereinafter defined); and

WHEREAS, in order to secure the obligations of the Borrower hereunder, the Borrower mortgages and grants to the Lender a security interest in the Estate.

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1. Definitions. In this Loan Agreement, unless the context otherwise requires:

(a) The terms defined herein and in any agreement executed in connection herewith include the plural as well as the singular and the singular as well as the plural. Except as otherwise indicated, all agreements defined herein refer to the same as from time to time amended or supplemented or the terms thereof waived or modified in accordance herewith and therewith.

(b) As used herein, the terms **Basic Rent, Basic Rent Dates, Casualty Value, Closing Date, Equipment, Event of Loss, Leased Equipment, Leased Item, Group of Equipment, Late Payment Rate, Lessor's Cost, Lessor's Liens, Liens, Person, Rent, Supplemental Rent, Termination Date and Termination Value** shall have the respective meanings given or referred to in the Lease.

(c) With respect to each series of Notes, the terms **First Interest Payment Date, First Principal Payment Date, Interest Payment Dates, Last Principal Payment Date, Maximum Aggregate Principal Amount, Overdue Rate, Principal Payment Dates and Rate of Interest** shall have the meanings set forth in Exhibit B hereto.

(d) The following terms shall have the respective meanings set forth below:

Amount and Payment shall mean amounts realized and payments received by the Lender with respect to the Leased Equipment or which are otherwise attributable to the Notes or are part of the Estate, but shall not include amounts realized and payments received with respect to the Excluded Rights.

Authorized Officer of the Borrower shall mean the President, any Vice President, any Assistant Vice President, the Secretary, any Assistant Secretary, any Trust Officer, any Corporate Trust Officer or any Assistant Trust Officer or any other officer of the Borrower authorized by the Board of Directors or the Executive Committee or other appropriate Committee of the Board of Directors of the Borrower to perform the

specific act or duty or to sign the specific document in question.

Beneficiary shall mean Litton Equity Investments, Inc., a Nevada corporation.

Business Day shall mean any day other than a Saturday, Sunday or other day on which banks located in the City of New York, New York or the City of San Francisco, California are authorized to close.

Contingent Lease shall mean any lease executed and delivered by the Contingent Lessee pursuant to the Contingent Lease Agreement.

Contingent Participation Agreement shall mean any participation agreement executed and delivered by the Contingent Lessee pursuant to the Contingent Lease Agreement.

Default shall mean an event which, after the giving of notice or lapse of time, or both, would mature into an Event of Default.

Equipment shall have the meaning set forth in the Lease, which Equipment is described in Exhibit A hereto.

Estate shall mean all of the properties, claims, rights and things subject to or intended to be subject to the security interest of this Loan Agreement pursuant to Section 2.1 hereof for the benefit of the Lender. The Excluded Rights are not part of the Estate.

Event of Default shall have the meaning set forth in Section 8.1 hereof.

Excluded Rights shall mean all rights referred to in clauses (i) and (ii) of paragraphs (a), (b) and (e) of Section 2.1 hereof.

Indemnified Person shall mean any Person the Lessee has agreed to indemnify pursuant to the terms of the Lease or the Participation Agreement.

Lease shall mean the Equipment Lease dated as of January 15, 1983 between the Borrower, as Lessor, and St. Louis Southwestern Railway Corporation, as lessee; **provided, however,** that from and after the

effectiveness of the Contingent Lease, the term **Lease** shall mean the Contingent Lease. For purposes of this Loan Agreement, it shall be presumed that the terms defined in the Lease when used herein with respect to the Contingent Lease shall have the same meaning as those set forth in the Lease.

Lessee shall mean St. Louis Southwestern Railway Corporation, a Missouri corporation; **provided, however,** that from and after the effectiveness of the Contingent Lease, the term **Lessee** shall mean the Contingent Lessee.

Lender's Counsel shall mean Mudge Rose Guthrie & Alexander, 20 Broad Street, New York, New York 10005, as special counsel.

Loan shall have the meaning set forth in the Participation Agreement.

Loan Agreement shall mean this Mortgage, Loan and Security Agreement dated as of January 15, 1983 between The Connecticut Bank and Trust Company, N.A., not in its individual capacity, except as expressly provided herein, but solely as trustee, as Borrower, and Sun Life Assurance Company of Canada (U.S.), as Lender.

Outstanding when used with respect to the Notes created by this Loan Agreement shall mean, as of the date of determination, all Notes theretofore issued and delivered pursuant to this Loan Agreement, except (a) Notes theretofore cancelled by the Borrower or delivered to the Borrower for cancellation pursuant to Section 4.1 hereof, and (b) Notes in lieu of which other Notes have been issued and delivered pursuant to Section 4.3 hereof.

Participation Agreement shall mean the Participation Agreement dated as of January 15, 1983 among the Borrower, the Beneficiary, the Lender and the Lessee; **provided, however,** that from and after the effectiveness of the Contingent Participation Agreement, the term **Participation Agreement** shall mean the Contingent Participation Agreement.

Payments, see Amounts and Payments.

Purchase Order shall mean the Purchase Order dated September 22, 1982 between Southern Pacific Transportation Company and ITEL Corporation, Rail

Division, as assigned by Southern Pacific Transportation Company to St. Louis Southwestern Railway Company and by St. Louis Southwestern Railway Company to the Borrower.

Secured Equipment shall have the meaning set forth in Section 8.2 hereof.

Trust Agreement shall mean the Trust Agreement dated as of January 15, 1983 between the Borrower and the Beneficiary, as originally executed.

Trust Estate shall mean the Trust Estate as such term is defined in the Trust Agreement.

ARTICLE II

SECURITY

SECTION 2.1. **Grant of Security Interest.** As security for the due and punctual payment of the principal of and premium, if any, and interest on the Notes according to their terms and effect and the performance and observance by the Borrower and the Beneficiary of all the covenants made by them in this Loan Agreement or the Participation Agreement or in any agreement, document or certificate delivered in connection herewith or therewith, the Borrower hereby mortgages, assigns, transfers and grants to the Lender a security interest in the following:

(a) All of the Borrower's right, title and interest in and to the Lease and all payments, including, without limitation, all payments of Basic Rent and Supplemental Rent, due or to become due thereunder, except with respect to (i) any of the Indemnified Person's respective rights as to indemnification under the Lease and (ii) any of the Indemnified Person's respective rights as to the proceeds of liability insurance maintained pursuant to the Lease;

(b) All of the Borrower's right, title and interest in and to the Contingent Lease and all payments, including, without limitation, all payments of Basic Rent and Supplemental Rent, due or to become due thereunder, except with respect to (i) any of the Indemnified Person's respective rights as to indemnification under the Contingent Lease and (ii) any of the Indemnified Person's respective rights as to the

proceeds of liability insurance maintained pursuant to the Contingent Lease;

(c) All of the Borrower's right, title and interest in and to the Leased Equipment and all proceeds thereof;

(d) All of the Borrower's right, title and interest in and to the Purchase Order and all proceeds thereof;

(e) All of the Borrower's right, title and interest in and to the Contingent Lease Agreement and all payments due or to become due thereunder, except with respect to (i) any of the Indemnified Persons' respective rights as to indemnification under the Contingent Lease and (ii) any of the Indemnified Persons' respective rights as to the proceeds of liability insurance maintained pursuant to the Contingent Lease; and

(f) All tangible and intangible personal property and fixtures, and all proceeds thereof, owned by the Borrower at the time of the execution and delivery of the Trust Agreement, or at any time thereafter acquired, and constituting a part of the Trust Estate.

provided, however, that any Payments or Amounts which have been distributed to the Borrower in accordance with the provisions of this Loan Agreement shall no longer be subject to the security interest of this Loan Agreement;

TO HAVE AND TO HOLD all the aforesaid properties, rights and interests unto the Lender, its successors and assigns forever, nevertheless, for the use and purposes and with the power and authority and subject to the terms and conditions set forth in this Loan Agreement.

SECTION 2.2. Payments Under Lease. The Borrower agrees to direct the Lessee to make all Payments to be made by the Lessee under the Lease directly to the Lender or in accordance with the Lender's instructions until such time as the Borrower's obligations hereunder and under the Notes have been discharged. The Borrower agrees that should it receive any such Payments directed to be made to the Lender or any proceeds for or with respect to the Estate or as the result of the sale or other disposition thereof, it will promptly forward such Payments to the Lender or in accordance with the Lender's instructions. The Lender agrees to apply payments from time to time received by it (from the Lessee, the Borrower or otherwise) with respect to the Lease or the Leased Equipment in the manner provided in Article VI hereof.

SECTION 2.3. Release of Security Interest in Leased Equipment. In case a release by the Lender of the security interest in any Leased Item or any part thereof which constitutes security for the Notes shall be necessary or desirable in order to enable the Borrower or the Lessee to carry out any action required or permitted by the Lease, the Lender shall execute the same upon receipt of a certificate in form and substance satisfactory to the Lender, executed by the Borrower and the Lessee, accompanied by an opinion of counsel reasonably satisfactory to the Lender, each of which shall be to the effect that all necessary actions have been or are being taken in connection with the proposed action to comply with the terms of this Loan Agreement and the Lease and that all documents necessary to perfect, protect and preserve the security interest created by this Loan Agreement with respect to such additional property, if any, which is to be subjected to the security interest of this Loan Agreement have been duly authorized and properly executed and have been delivered to the Lender.

SECTION 2.4. Release of Security Interest in Estate. Upon receiving evidence satisfactory to the Lender that the Lender has received full payment of all principal of and premium, if any, and interest on the Notes and any other sums payable to it under or in respect of this Loan Agreement, the Notes, the Participation Agreement, the Lease and any agreement, document or certificate delivered in connection herewith or therewith,

(a) the mortgage and the security interest and all other estate and rights granted by this Loan Agreement shall cease and become null and void and all of the property, rights and interests granted as security for the Notes shall revert to and revest in the Borrower without any other act or formality whatsoever, and

(b) the Lender shall, at the request and at the expense of the Borrower, execute and deliver to the Borrower such termination statements or other instruments as shall be requisite to evidence the satisfaction and discharge of this Loan Agreement and the mortgage and security interest hereby created, to release or reconvey to the Borrower all the Estate, freed and discharged from the provisions herein contained, and to release the Borrower from its covenants herein contained.

SECTION 2.5. Power of Attorney. Subject to the provisions of Section 7.1(d) hereof, the Borrower hereby appoints the Lender the Borrower's attorney, irrevocably, with full power of substitution, to collect all Payments due and to become due under or arising out of the Lease, to enforce compliance by the Lessee with all the terms and provisions of the Lease, and to take any action (including, but not limited to, the filing of financing statements or other documents or instruments evidencing the mortgage and security interest granted to the Lender hereby) or institute any proceedings which the Lender may deem to be necessary or appropriate to protect and preserve the interest of the Lender in the Estate.

SECTION 2.6. Limitation of Lender's and Borrower's Rights with Respect to the Estate. Notwithstanding anything to the contrary in this Section 2.6 or in Section 7.1(d) hereof, the Borrower and the Lender shall not, without the consent of the Beneficiary, (i) amend, modify or supplement, or give or accept any waiver or consent with respect to, the Lease, the Purchase Order, the Contingent Lease Agreement, the Participation Agreement, or any document or certificate delivered in connection therewith so as to increase the liabilities or obligations of, or diminish the immunities of, the Beneficiary or the Borrower thereunder, (ii) enter into any amendment, modification or supplement, or give any waiver or consent with respect to, this Loan Agreement or any Note, or (iii) reduce the amount or extend the time of payment of any amount with respect to the Beneficiary's or the Borrower's Excluded Rights or change any of the circumstances under which any such amount is payable.

ARTICLE III

ISSUE AND EXECUTION OF NOTES

SECTION 3.1. Maximum Authorized Issue. There are hereby authorized for issuance three separate series of Notes of the Borrower, which shall be designated Promissory Notes, Series 1 through Series 3 and which shall be in substantially the form as set forth in Exhibit C hereto. The numerical designation of each series of Notes shall correspond to the numerical designation of the Group of Equipment in respect of which Notes of such series are issued. Notes of all series in an aggregate principal amount not exceeding the Maximum Aggregate Principal Amount, except as provided in Section 4.3 hereof, may be executed and delivered in accordance with Section 3.3 hereof.

SECTION 3.2. Parity of Notes. All Notes issued hereunder shall rank on a parity with each other Note regardless of series and shall as to each other be secured equally and ratably by this Loan Agreement, without preference, priority or distinction of any thereof over any other by reason of difference in time of issuance or otherwise.

SECTION 3.3. Issuance of Notes. Upon satisfaction of and compliance with the requirements and conditions set forth in Section 9 of the Participation Agreement on any Closing Date, Notes in the aggregate principal amount equal to the Loan made by the Lender on such Closing Date may be executed by the Borrower and delivered to the Lender.

SECTION 3.4. Characteristics of Notes. Except as provided in Section 4.2 hereof, Notes shall be dated the date of their delivery which will be a Closing Date. Notes of each series will bear interest from and including their respective dates on the unpaid principal balance thereof at the Rate of Interest for such series, payable at the frequency set forth in Exhibit B hereto for such series on the Interest Payment Dates of each year commencing on the First Interest Payment Date. The principal of Notes of each series will be payable in installments on the Principal Payment Dates of each year commencing on the First Principal Payment Date and ending on the Last Principal Payment Date. Except in the case of any payments of interest only, all payments on each Note are to be as set forth in the Loan Schedule attached to such Note and shall be sufficient to discharge fully all unpaid principal of and premium, if any, and accrued interest on such Note.

Notes of each series will also bear interest at the Overdue Rate on any part of the principal thereof not paid when due for any period during which the same shall be overdue. Except as otherwise specifically provided in the Notes, all interest payable on the Notes shall be computed on the basis of a year of twelve months of 30 days each.

SECTION 3.5. Execution of Notes. The Notes shall be executed on behalf of the Borrower by one of its Authorized Officers. Such signature may be a manual or facsimile signature and may be printed or otherwise reproduced on the Notes. In case any Authorized Officer of the Borrower, who shall have executed any of the Notes either manually or by facsimile signature, shall cease to be such an Authorized Officer before the Notes so executed shall have been delivered or disposed of by the Borrower, such Notes nevertheless may be delivered or disposed of as though the person who executed such Notes had not ceased to be such an Authorized Officer of the Borrower; and any Note may be executed on behalf of the Borrower by such person as, at the actual time of execution of such Note, shall

be an Authorized Officer of the Borrower, although at the date of such Note any such person was not such an Authorized Officer.

SECTION 3.6. Limitation on Source of Payments. All payments to be made by the Borrower on the Notes shall be made only from the income or proceeds from the Estate. The Lender agrees that it will look solely to the income and proceeds from the Estate to the extent available for distribution to it as herein provided and that neither the Borrower nor the Beneficiary shall be personally liable to the Lender for any amounts payable under the Notes or, except in the case of the Borrower, with respect to the breach of the covenants and agreements set forth in Section 7.1(c) or 7.1(d) hereof or of those representations, warranties or agreements in the Participation Agreement expressly made by the Borrower in its individual capacity or except in the case of the Beneficiary, with respect to the breach of those representations, warranties or agreements in the Participation Agreement made by the Beneficiary, for any liability under this Loan Agreement or the Participation Agreement.

SECTION 3.7. Payment. The principal of, premium, if any, and interest on each Note shall be payable at the address and in the manner set forth in Exhibit B hereto under **Lender's Payment Instructions**, or such other address as the Lender shall advise the Borrower in writing, and in immediately available funds in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. If any Interest Payment Date or Principal Payment Date specified in this Loan Agreement shall not be a Business Day, the payment otherwise due thereon shall be due and payable on the next succeeding Business Day. Final payment of any Note shall be made only against surrender of such Note to the Borrower at the address of the Borrower set forth in Section 10.2 hereof.

ARTICLE IV

CANCELLATION, EXCHANGE AND REPLACEMENT OF NOTES

SECTION 4.1. Cancellation of Notes. All Notes surrendered to the Borrower for payment, prepayment, or exchange shall be cancelled by it; and no Notes shall be issued in lieu thereof except as expressly permitted by the provisions of this Loan Agreement. If the Borrower shall acquire any of the Notes, such acquisition shall not operate as a redemption of or the satisfaction of the indebtedness represented by such Notes unless and until the same shall be cancelled.

SECTION 4.2. Exchange of Notes. The Lender may exchange any of the Outstanding Notes for new Notes of the same series by surrendering such Outstanding Notes at the address of the Borrower set forth in Section 10.2 hereof, together with the written request of the Lender, for the issuance of a new Note or Notes of the same series, specifying the authorized denomination or denominations of the same. Promptly upon receipt by the Borrower of the foregoing, the Borrower shall execute and deliver such new Note or Notes of the same series, in the aggregate principal amount and dated the same date as the Outstanding Notes surrendered, in such denomination or denominations specified in such written request; **provided, however,** that, if more than one new Note is to be issued, the denominations of all but one of such new Notes shall not be less than \$100,000; and **provided further,** that if Outstanding Notes, dated different dates, of the same series are surrendered on or after the First Interest Payment Date and interest on such Outstanding Notes with respect to the First Interest Payment Date has been paid, then one or more new Notes may be issued in replacement thereof in the aggregate principal amount of the Outstanding Notes surrendered and such new Note or Notes may be dated the First Interest Payment Date. The Lender shall make a notation on each old Note surrendered to the Borrower pursuant to this Section 4.2 and the Borrower shall make a notation on each new Note issued by the Borrower pursuant to this Section 4.2 of the amount of all payments of principal and premium, if any, theretofore made (or the date to which such payments have been made) on the old Note or Notes in exchange for which such new Note has been issued and the date to which interest on such old Note or Notes has been paid.

SECTION 4.3. Mutilated, Destroyed, Lost or Stolen Notes. If any Note shall become mutilated or shall be destroyed, lost or stolen, the Borrower shall, upon the written request of the Lender, execute and deliver in replacement thereof, a new Note of the same series, payable in the same original principal amount and dated the same date as the Note so mutilated, destroyed, lost or stolen. The Lender shall make a notation on each old Note surrendered to the Borrower pursuant to this Section 4.3 and the Borrower shall make a notation on each new Note issued by the Borrower pursuant to this Section 4.3 of the amount of all payments of principal and premium, if any, theretofore made (or the date to which such payments have been made) on the Note so mutilated, destroyed, lost or stolen and the date to which interest on such old Note has been paid. If the Note being replaced has been mutilated, such Note shall be delivered to the Borrower and shall be cancelled by it. If the Note being replaced has been destroyed, lost or stolen, the Lender shall furnish to the Borrower an indemnity agreement of the Lender to save the Borrower and the Estate harmless from any loss, however remote, including claims for principal of, premium, if any, and interest on the purportedly destroyed, lost or stolen Note, together with the written statement, signed by a duly authorized officer of the Lender, advising as to the destruction, loss or theft of such Note.

ARTICLE V

PREPAYMENT OF NOTES

SECTION 5.1. **Prepayment of Notes.** Notes of each series shall be subject to prepayment in whole or in part as and to the extent amounts are required by any provision of Article VI hereof to be applied in payment of the principal thereof. In addition, each Note shall be subject to prepayment by the Borrower (notwithstanding the limitation of the Borrower's obligation set forth in Section 3.6 hereof) within the five-day period preceding each Interest Payment Date as to interest accrued and to accrue thereon to, but excluding, such Interest Payment Date. In the event of any prepayment of the principal amount of any Note pursuant to this Loan Agreement, the amount of each payment of such Note becoming due after application of such prepayment shall, to the extent appropriate, be adjusted so that, upon the due payment of all payments thereafter, the entire unpaid principal amount of and interest on such Note shall have been paid in full.

ARTICLE VI

RECEIPT, DISTRIBUTION AND APPLICATION OF INCOME AND PROCEEDS FROM THE ESTATE

SECTION 6.1. **Basic Rent and Rent on Late Installments of Basic Rent.** Except as otherwise provided in Section 6.3 hereof, each payment of Basic Rent, as well as any payment of Rent at the Late Payment Rate on late installments of Basic Rent for the Leased Equipment, received by the Lender at any time under the Lease, shall be applied by the Lender on the date such payment is received by the Lender in the following order of priority: **first**, so much of such payment as shall be required to pay any accrued but unpaid interest (as well as any interest on overdue principal) then due on all Notes shall be paid to the Lender; **second**, so much of such payment as shall be required to pay in full the aggregate amount of the payment or payments of principal and premium, if any, then due on all Notes shall be paid to the Lender; and **third**, the balance, if any, of such payment remaining thereafter shall be paid, concurrently with any application pursuant to clause first hereof, to the Borrower.

SECTION 6.2. Payments Received as Result of Event of Loss or Termination. Except as otherwise provided in Section 6.3 hereof, any Payments received and Amounts realized by the Lender pursuant to the Lease as a result of the occurrence of an Event of Loss with respect to any Leased Item or the exercise by the Lessee of any of its rights to terminate the Lease with respect to the Leased Items shall be applied forthwith upon receipt by the Lender in the following order of priority: **first**, in the manner provided in clause first of Section 6.3 hereof; **second**, so much of such Amount as shall be required to pay any accrued but unpaid interest to the date of such application on the principal amount of Notes to be prepaid by operation of clause **third** of this Section shall be paid to the Lender; **third**, so much of such Amount as shall be equal to the product of (x) the aggregate unpaid principal amount of Notes Outstanding on the Basic Rent Date next following the occurrence of the Event of Loss or on the Termination Date, as the case may be (after giving effect to any reduction of the aggregate principal amount of such Notes Outstanding on such Basic Rent Date or Termination Date resulting from the distribution of any payment of Basic Rent becoming due on such Basic Rent Date or Termination Date) multiplied by (y) a fraction, the numerator of which shall be the aggregate amount of Lessor's Cost of the Leased Items suffering such Event of Loss or as to which the Lease is being terminated and the denominator of which shall be the aggregate amount of Lessor's Cost of all Leased Items immediately prior to such Event of Loss or termination, shall be paid to the Lender; and **fourth**, the balance, if any, of such Payments or Amounts remaining thereafter shall be paid to the Borrower.

SECTION 6.3. Payments Received After, or Held at Time of, Event of Default. All Payments received and Amounts realized by the Lender (and which become part of the Estate) after an Event of Default shall have occurred and be continuing hereunder (including any Amounts realized by the Lender from the exercise of any remedies pursuant to the Lease or Article VIII hereof), as well as all Payments or Amounts then held by the Lender as part of the Estate, shall be applied forthwith by the Lender in the following order of priority:

first, so much of such Payments or Amounts as shall be required to pay the Lender the amounts payable to it as an Indemnified Person under the Lease (to the extent not previously reimbursed) shall be paid to the Lender;

second, so much of such Payments or Amounts remaining as shall be required to pay in full the aggregate unpaid principal amount of and premium, if any, on all Notes, plus the accrued but unpaid interest thereon to the date of distribution, shall be paid to the Lender; and

third, the balance, if any, of such Payments or Amounts remaining thereafter shall be paid to the Borrower.

SECTION 6.4. Payments Received for Which Provision Is Made in Lease. Except as otherwise provided in Section 6.3 hereof, any Payments received by the Lender for which provision as to the application thereof is made in the Lease shall be applied forthwith to the purpose for which such Payment was made in accordance with the terms of the Lease.

SECTION 6.5. Payments Received for Which No Provision is Made.

(a) Any Payments received and any Amounts realized by the Lender for which no provision as to the application thereof is made in the Lease or elsewhere in this Article, and

(b) All Payments received and Amounts realized by the Lender under the Lease or otherwise with respect to the Leased Equipment to the extent received or realized at any time after payment in full of the principal of and premium, if any, and interest on all the Notes, as well as any other amounts remaining as part of the Estate after payment in full of the principal of and premium, if any, and interest on all such Notes,

shall be applied forthwith by the Lender in the following order of priority: **first**, in the manner provided in clause **first** of Section 6.3 hereof; and **second**, in the manner provided in clause **third** of Section 6.3 hereof.

SECTION 6.6. Certain Amounts to be Held in Case of Event of Default or Default. Anything in this Article to the contrary notwithstanding, after the Lender shall have knowledge of a Default or an Event of Default, all Payments and Amounts which, but for the provisions of this Section, would otherwise be distributable to the Borrower or the Beneficiary shall be held by the Lender as part of the Estate and, if (i) such Default or Event of Default shall cease to be continuing prior to the time such Payments or Amounts may become distributable pursuant to Section 6.3 hereof or (ii) any such Amounts shall have been so held for 180 days and the Lender shall not have declared the Lease to be in default or the Notes to be due and payable in accordance with the provisions of Section 8.3 hereof, such Payments or Amounts shall be distributable as elsewhere in this Article provided.

SECTION 6.7. Payments and Amounts in Respect of Excluded Rights. Anything in this Article to the contrary notwithstanding, all payments received by the Lender and amounts realized by the Lender with respect to the Excluded Rights shall be paid by the Lender to the Indemnified Person entitled to receive the same.

SECTION 6.8. Amounts Payable to Borrower to be Paid to Beneficiary on Certain Conditions. All Payments and Amounts from time to time distributable under this Agreement by the Lender to the Borrower shall, until receipt of written instructions of the Borrower to the contrary, be paid by the Lender directly to the Beneficiary at the address and in the manner set forth in Exhibit B hereto under **Beneficiary's Payment Instructions**, and in immediately available funds in such coin or currency of the United States of America as at the time shall be legal tender for the payment of public and private debts.

ARTICLE VII

COVENANTS OF BORROWER

SECTION 7.1. Covenants of Borrower. The Borrower hereby covenants and agrees as follows:

(a) the Borrower will duly and punctually pay the principal of, premium, if any, and interest on the Notes in accordance with the terms of the Notes and this Loan Agreement (notwithstanding the foregoing, it is understood and agreed that neither the Borrower nor the Beneficiary shall be personally liable to the Lender for the payment of such amounts);

(b) the Borrower will fulfill all its obligations under the Lease and this Loan Agreement in accordance with their terms and, upon any default by the Lessee under the Lease, will, upon the request of the Lender, enforce all its rights as lessor under the Lease or any of such rights as the Lender shall request;

(c) the Borrower will, at its own cost and expense, promptly take such action as may necessary to discharge duly all liens on any part of the Estate (i) resulting from claims against the Borrower not related to its ownership of the Leased Equipment or to the Borrower's administration of the Trust Estate, or (ii) created or granted by the Borrower, other than Liens created or granted by the Borrower in connection with

the purchase or financing of the Leased Equipment pursuant hereto and pursuant to the Participation Agreement or the leasing of the Leased Equipment pursuant to the Lease;

(d) the Borrower will not, except with the prior consent of the Lender, agree to any amendment to, or any waiver, discharge or termination of, any term or provision of the Lease, the Purchase Order or the Contingent Lease Agreement or give any consent thereunder or declare a default thereunder or exercise any rights or remedies thereunder except to exercise its rights to indemnification by the Lessee thereunder; **provided, however,** that (i) without the necessity of the consent of the Lender (A) any indemnities in favor of the Borrower may be modified, amended or changed in such manner as shall be agreed to by the Borrower and the Lessee, (B) the Borrower and the Lessee may agree to a reduction in the amount of (1) the Casualty Value for the Leased Items from that set forth in the Lease, so long as such Casualty Value, as so reduced, shall not be less than the aggregate principal amount of, and accrued interest on, Notes Outstanding on the Basic Rent Date or other date as of which such Casualty Value shall be payable and (2) the Termination Value for the Leased Items from that set forth in the Lease, so long as such Termination Value, as so reduced, shall not be less than the aggregate principal amount of, and premium, if any, and accrued interest on, Notes Outstanding on the Basic Rent Date or other date as of which such Termination Value shall be payable, (C) the Borrower may receive all notices, certificates, opinions of counsel and other documents and information to be furnished to the Borrower pursuant to the Lease, the Purchase Order, the Contingent Lease Agreement and any agreement, document and certificate delivered in connection therewith, and (D) the Borrower may exercise the rights of the Borrower under Section 24(i) of the Lease (or the analogous provision of the Contingent Lease) and (ii) unless and until the Lender shall have declared the Lease to be in default or the Notes to be due and payable in accordance with the provisions of Section 8.3 hereof, all rights, powers, amendments, authorizations, approvals, consents and notices under or with respect to the Lease, the Purchase Order and the Contingent Lease Agreement shall be exercised or given jointly by the Borrower and the Lender, and shall be effective only if consented to by the Beneficiary, except that the Borrower shall have the right, without the consent or concurrence of the Lender, to exercise

the rights of the Borrower under Sections 3(e), 6, 10(d), 11, 17, 18 and 19 of the Lease (or the analogous provisions of the Contingent Lease) upon the condition and with the understanding that any amounts or payments pursuant to said Sections of the Lease (or the analogous provisions of the Contingent Lease) shall be applied in accordance with the provisions of Article VI hereof;

(e) if the Borrower shall have actual knowledge of any Default or Event of Default hereunder or any Default or Event of Default under the Lease, it shall promptly give notice thereof to the Lender unless such Default or Event of Default shall have been remedied before the giving of such notice. Actual knowledge in the case of the Borrower shall mean actual knowledge of any officer or employee in the corporate trust department of the Borrower;

(f) from time to time the Borrower will do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Lender to do or execute for the purpose of fully carrying out and effectuating this Loan Agreement and the intent hereof;

(g) the Borrower will not, except in the case of the resignation or removal of the Borrower as trustee as provided in the Trust Agreement, assign this Loan Agreement, the Notes, the Lease, the Purchase Order or the Contingent Lease Agreement without the prior consent of the Lender;

(h) the Borrower will not without the prior consent of the Lender permit the Trust Agreement to be amended or supplemented in any manner which would affect any right of the Lender or the holder of any Note or which would in any way affect the Estate; and

(i) the Borrower will, from time to time, do and perform any other act and will execute, acknowledge, deliver, and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) or will cause to be filed, registered, deposited or recorded (and, whenever necessary, refiled, reregistered, rerecorded or redeposited), any and all further instruments reasonably requested by the Lender, and furnished by the Lender to the Borrower, for the purpose of proper protection, to the satisfaction of the Lender and Lender's Counsel, of the mortgage and

security interest granted to the Lender under this Loan Agreement and the rights of the Lender hereunder. Upon request the Borrower will promptly furnish to the Lender evidence of such filing, registering, depositing or recording, satisfactory to the Lender and Lender's Counsel.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES OF LENDER

SECTION 8.1. **Event of Default.** The term **Event of Default**, wherever used herein, shall mean any of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or come about or be affected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) any **Event of Default** as defined in the Lease;
or

(b) so long as the Notes shall be outstanding, the Lender shall fail to have a valid prior mortgage on and a duly perfected first priority security interest in the Estate enforceable in accordance with the terms of this Loan Agreement, subject only to Liens (other than Lessor's Liens, except Liens created or granted by the Borrower in connection with the purchase or financing of the Leased Equipment pursuant hereto and pursuant to the Participation Agreement or the leasing of the Leased Equipment pursuant to the Lease) permitted by Section 8 of the Lease; or

(c) the Borrower shall fail to observe or perform any other covenant of the Borrower in this Loan Agreement, the Notes, the Participation Agreement or the Lease or in any agreement, document or certificate delivered in connection herewith or therewith and such failure shall continue for a period of 30 days after notice thereof shall have been given to the Beneficiary, the Lessee and the Borrower by the Lender, specifying such failure and requiring it to be remedied; or

(d) any representation or warranty made by the Borrower in this Loan Agreement, the Participation

Agreement or the Lease or in any agreement, document or certificate delivered in connection herewith or therewith proves to have been incorrect in any material respect when the same was made; or

(e) the Beneficiary shall fail to observe or perform any covenant of the Beneficiary in the Participation Agreement or the Trust Agreement or in any agreement, document or certificate delivered in connection therewith and such failure shall continue for a period of 30 days after notice thereof shall have been given to the Beneficiary, the Lessee and the Borrower by the Lender; or

(f) any representation or warranty made by the Beneficiary in the Participation Agreement or the Trust Agreement or in any agreement, document or certificate delivered in connection therewith proves to have been incorrect in any material respect when the same was made.

Notwithstanding the foregoing, an Event of Default as defined in the Lease shall not be an Event of Default hereunder: (i) in case such Event of Default results from non-payment of any amount with respect to the Beneficiary's or the Borrower's Excluded Rights, unless and until the Beneficiary shall notify the Lender that the Beneficiary deems such failure to be an Event of Default under the Lease; or (ii) if such Event of Default results from non-payment of Basic Rent under the Lease due on a Basic Rent Date, if the Borrower (notwithstanding the limitation of the Borrower's obligation set forth in Section 3.6 hereof) shall have paid to the Lender an amount equal to the amount of principal of, premium, if any, and interest due and payable on the Notes on such Basic Rent Date, together with interest at the Overdue Rate on the overdue principal of the Notes for the period during which the same shall have been overdue, within five days after receipt by the Borrower of notice of such non-payment; **provided, however,** that the Borrower's rights under the foregoing clause (ii), including any such rights exercised pursuant to Section 24(i) of the Lease (or the analogous provision of the Contingent Lease), shall be limited to four (4) such payments during the term of the Notes, only two (2) of which payments may be consecutive.

SECTION 8.2. Enforcement of Remedies. After an Event of Default shall have occurred and be continuing hereunder, then and in every such case the Lender may exercise any or all of the rights and powers and pursue (i) subject to the rights of the Lessee under the Lease, any and all of the remedies pursuant to this Article, and (ii) in the event such Event of Default is an Event of Default referred to in paragraph (a) of Section 8.1 hereof, any and all of the remedies pursuant to the Lease and, to the extent permitted by applicable law, may, after the Lender pursuant to Section 8.3 hereof shall have declared the unpaid principal amount of all Notes immediately due and payable, take possession of all or any part of the Leased Equipment then constituting a part of the Estate (in this Article sometimes referred to as the **Secured Equipment**) and may exclude the Beneficiary, the Borrower and the Lessee and all Persons claiming under them wholly or partly therefrom.

SECTION 8.3. Acceleration of Notes. Upon the occurrence and during the continuance of an Event of Default hereunder, the Lender in its discretion may declare the unpaid principal amount of all Notes with accrued interest thereon to be immediately due and payable, upon which declaration such principal amount and such accrued interest shall immediately become due and payable without further act or notice of any kind.

SECTION 8.4. Specific Remedies; Enforcement of Claims without Possession of Notes. Upon the occurrence and during the continuance of an Event of Default hereunder and provided that the Lender pursuant to Section 8.3 hereof shall have declared the unpaid principal amount of all Notes immediately due and payable:

(a) At the request of the Lender, the Borrower shall promptly execute and deliver to the Lender such instruments and other documents as the Lender may deem necessary or advisable to enable the Lender or an agent or representative designated by the Lender, at such time or times and place or places as the Lender may specify, to obtain possession of all or any part of the Secured Equipment to which possession the Lender shall at the time be entitled hereunder. If the Borrower shall for any reason fail to execute and deliver such instruments and documents after such request by the Lender, the Lender may (1) obtain a judgment conferring on the Lender the right to such possession and requiring the Borrower to deliver such instruments and documents to the Lender, to the entry of which judgment the Borrower hereby specifically consents, and (2) pursue all or part of such Secured Equipment wherever it may be found and may enter the premises of the Lessee wherever such Secured Equipment may be or is supposed to be and search for such Secured Equipment and, to the

extent permitted by applicable law, take possession of and remove such Secured Equipment. Upon every such taking of possession, the Lender may, from time to time, at the expense of such Secured Equipment, make all such expenditures for maintenance, insurance, repairs, alterations, additions and improvements to and of such Secured Equipment, as it may deem necessary and proper. In each such case, the Lender shall have the right, to the extent permitted by applicable law, to maintain, use, operate, store, lease, control or manage such Secured Equipment and to carry on the business and to exercise all rights and powers of the Borrower relating to such Secured Equipment, as the Lender shall deem necessary, including the right to enter into any and all such agreements with respect to the maintenance, use, operation, storage, leasing, control or management of such Secured Equipment or any part thereof as the Lender may determine; and the Lender shall be entitled to collect and receive all tolls, rents, revenues, issues, income, products and profits of such Secured Equipment and every part thereof, without prejudice, however, to the right of the Lender under any provision of this Loan Agreement to collect and receive all cash held by, or required to be deposited with, the Lender hereunder. Such tolls, rents, revenues, issues, income, products and profits shall be applied to pay the expense of holding and operating such Secured Equipment and of conducting the business thereof, and of all maintenance, repairs, alterations, additions and improvements, and to make all payments which the Lender may be required or may elect to make, if any, for taxes, assessments, insurance or other proper charges upon such Secured Equipment or any part thereof (including the employment of engineers and accountants to examine, inspect and make reports upon the properties and books and records of the Borrower as such), and all other payments which the Lender may be required or authorized to make under any provision of this Loan Agreement.

(b) The Lender may proceed to enforce its rights hereunder by directing payment to it of all monies payable under any agreement or undertaking constituting part of the Estate, by proceedings in any court of competent jurisdiction for the appointment of a receiver or for sale of all or any part of the Secured Equipment possession to which the Lender shall at the time be entitled hereunder or for foreclosure of such Secured Equipment, and by any other action, suit, remedy or proceeding authorized or permitted by this Loan

Agreement or by law or by equity, and may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have its claims asserted or upheld in any bankruptcy, receivership or other judicial proceedings.

(c) Without limiting the foregoing, the Lender shall have as to such of the Estate as is subject to the Uniform Commercial Code or similar law in each relevant jurisdiction all the remedies of a secured party under the Uniform Commercial Code or similar law in such jurisdiction and such further remedies as from time to time may hereafter be provided in such jurisdiction for a secured party. In exercising its power of sale, the Lender shall be entitled to add to the indebtedness evidenced by the Notes any and all reasonable expenses incurred in such exercise. In exercising its power of sale under this Loan Agreement the Lender may sell such portion of or any part thereof, either as one unit or in separate units, all as the Lender may in its discretion elect; and the Lender may so sell the aforesaid properties, rights and interests or any part thereof either separately from or together with the whole or any part of other property which may constitute security for any obligation with respect to the Notes, also as the Lender may in its discretion elect.

(d) Notwithstanding the foregoing, so long as no Default or Event of Default under Section 8.1(a) hereof shall have occurred and be continuing, the rights of the Lender in and to the Secured Equipment shall be subject and subordinate to the rights of the Lessee under the Lease insofar as the remedies provided in this Section conflict with such rights of the Lessee.

SECTION 8.5. Rights and Remedies Cumulative. Each and every right, power and remedy herein specifically given to the Lender under this Loan Agreement shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Lender, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. No delay or omission by the Lender in the exercise of any right, remedy or power or in the pursuance of any remedy shall impair any such right,

power or remedy or be construed to be a waiver of any default on the part of the Beneficiary, the Borrower or the Lessee or to be an acquiescence therein.

SECTION 8.6. Restoration of Rights and Remedies. In case the Lender shall have proceeded to enforce any right, power or remedy under this Loan Agreement by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Lender, then and in every such case the Beneficiary, the Borrower, the Lender and the Lessee shall be restored to their former positions and rights hereunder with respect to the Estate, and all rights, remedies and powers of the Lender shall continue as if no such proceedings had been taken.

SECTION 8.7. Waiver of Past Defaults. Any past Default hereunder with respect to the Notes and its consequences may be waived by the Lender. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Loan Agreement; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

SECTION 8.8. Rescission and Annulment. If at any time after the principal of the Notes shall have become so due and payable by declaration by the Lender, and before any judgment or decree for the payment of the money so due, or any thereof, shall be entered, all arrears of interest upon the Notes and all other sums payable under the Notes (except the principal of and premium, if any, on the Notes which by such declaration shall have become payable) shall have been duly paid, and every other Default and Event of Default with respect to any covenant or provision of this Loan Agreement shall have been made good or cured, then and in every such case the Lender's declaration and its consequences may be rescinded and annulled by the Lender; but no such rescission or annulment shall extend to or affect any subsequent Default or Event of Default or impair any right consequent thereon.

ARTICLE IX

CONCERNING THE BORROWER

SECTION 9.1. Restrictions on Dealing with Estate. The Borrower agrees not to manage, control, use, sell, operate, store, lease, dispose of or otherwise deal with the Leased Equipment or any other part of the Estate, except (i) as expressly permitted or required by the terms of the Lease, and (ii) in accordance with the express terms hereof.

SECTION 9.2. No Duties of Maintenance, Etc. Except as specifically provided in this Loan Agreement, the Borrower shall have no duty (i) to see to any recording or filing of the Lease, this Loan Agreement, any instrument or document described in this Loan Agreement or any security interest or to see to the maintenance of any such documentation, recording or filing, (ii) to see to any insurance on the Leased Equipment or any other part of the Estate or to effect or maintain any such insurance, whether or not the Lessee shall be in default with respect to the Lease, other than to receive and hold any policies, cover notes or binders furnished by such Lessee pursuant to the Lease, (iii) except as provided in Section 7.1(c) hereof or in the Participation Agreement, to see to the payment or discharge of any tax, assessment or other governmental charge or any security interest of any kind owing with respect to, assessed or levied against, any part of the Estate or to make or file any reports or returns related thereto, (iv) to confirm, verify or inquire into the failure of the Lessee to send any reports or financial statements of the Lessee or (v) to inspect the Leased Equipment or any other part of the Estate at any time or ascertain or inquire as to the performance or observance of any of the Lessee's covenants under the Lease.

ARTICLE X

MISCELLANEOUS

SECTION 10.1. Governing Law. This Loan Agreement has been negotiated and delivered in the State of New York and shall be governed by, and be construed in accordance with, the laws of the State of New York.

SECTION 10.2. Notices. Unless otherwise expressly specified or permitted by the terms hereof, all communications, notices and consents provided for herein shall be in writing and shall become effective when delivered (if sent by messenger or courier) or three days after deposit in the United States mail with proper postage for first-class mail, prepaid, addressed as follows: (i) if to the Borrower, at One Constitution Plaza, Hartford, Connecticut 06115, Attention: Corporate Trust Department, (ii) if to the Lessee, at its address set forth in the Lease, and (iii) if to the Lender, at One

Sun Life Executive Park, Wellesley, Massachusetts 02181, Attention: Investment Department, Private Placement Section; or to such other address as the Borrower, the Lender or the Lessee, or its successors or assigns, may from time to time designate by notice duly given in accordance with this Section to each other party.

SECTION 10.3. Amendments. Neither this Loan Agreement nor any of the provisions of the Notes may be amended, waived, discharged or terminated orally, but only by an agreement in writing signed by the Borrower and the Lender.

SECTION 10.4. Limitation as to Enforcement of Rights, Remedies and Claims. Nothing in this Loan Agreement, whether express or implied, shall be construed to give to any Person other than the Beneficiary, the Borrower and the Lender any legal or equitable right, remedy or claim under or in respect of this Loan Agreement or any Note.

SECTION 10.5. Severability of Invalid Provisions. Any provision of this Loan Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 10.6. Benefit of Parties, Successors and Assigns; Entire Agreement. All representations, warranties, covenants and agreements contained herein or delivered in connection herewith shall be binding upon, and inure to the benefit of, the Beneficiary and its successors and assigns, the Borrower and its successors and, to the extent permitted hereby, assigns and the Lender and its successors and assigns. This Loan Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior understandings and agreements of such parties.

SECTION 10.7. Survival of Representations and Warranties. All representations and warranties made with respect hereto shall survive the execution and delivery of this Loan Agreement and the issue, sale and delivery of the Notes and shall continue in effect so long as any Note issued hereunder is outstanding and unpaid.

SECTION 10.8. Counterpart Execution. This Loan Agreement and any amendment to this Loan Agreement may be executed in any number of counterparts and by the different parties hereto and thereto on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute but one and the same instrument. Fully executed sets of counterparts shall be delivered to, and retained by, the Borrower and the Lender.

SECTION 10.9. Dating of Agreement. Although this Loan Agreement is dated for convenience and for the purpose of reference as of the date mentioned, the actual date or dates of execution by the parties hereto are the respective dates set forth under their signatures, and this Loan Agreement shall be effective on the latest of such dates.

SECTION 10.10. Borrower's Liability. The Connecticut Bank and Trust Company, N.A. is entering into this Agreement solely as trustee under the Trust Agreement and not in its individual capacity and in no case whatsoever shall The Connecticut Bank and Trust Company, N.A. (or any entity acting as a trustee under the Trust Agreement) be personally liable for, or for any loss in respect of, any of the statements, warranties, representations, agreements or obligations of the Borrower hereunder except for the willful misconduct or gross negligence of such entity and except for statements, warranties, representations, agreements or obligations expressly made by it in its individual capacity.

IN WITNESS WHEREOF, the parties hereto have each caused this Loan Agreement to be duly executed by their respective officers thereunto duly authorized as of the date set forth below.

**THE CONNECTICUT BANK AND TRUST
COMPANY, N.A.,**
not in its individual capacity,
except as expressly provided
herein, but solely as trustee,
as Borrower

DUPLICATE

By *V. Kuescher*
Title: Assistant Secretary
Date: _____

**SUN LIFE ASSURANCE COMPANY OF
CANADA (U.S.),**
as Lender

By _____
Title: _____
Date: _____

IN WITNESS WHEREOF, the parties hereto have each caused this Loan Agreement to be duly executed by their respective officers thereunto duly authorized as of the date set forth below.

**THE CONNECTICUT BANK AND TRUST
COMPANY, N.A.,**
not in its individual capacity,
except as expressly provided
herein, but solely as trustee,
as Borrower

By _____

Title: _____

Date: _____

**SUN LIFE ASSURANCE COMPANY OF
CANADA (U.S.),**
as Lender

DUPLICATE

By David B. Wray

Title: David B. Wray, Vice President

Date: January 31, 1983

**EXHIBIT A
to
Loan Agreement**

Equipment Description

The Equipment shall consist of the following equipment:

- 20 Eight-Unit IMPACK Articulated
Skeletal Flatcars (Serial Numbers
SSW-90059 through SSW-90078,
inclusive)

- 9 Four-Unit IMPACK Articulated
Skeletal Flatcars (Serial Numbers
SSW-90050 through SSW-90058,
inclusive)

EXHIBIT B
to
Loan Agreement

Additional Terms

Maximum Aggregate Principal Amount: \$4,305,000

Rate of Interest: From and including the date of issuance thereof to but excluding the date payment in full of the respective principal amounts thereof is made, Notes shall bear interest at the rate of 12.25% per annum (the **Debt Rate**).

Overdue Rate: One percent in excess of the Debt Rate, but in no event at a rate per annum greater than that permitted by applicable law.

Frequency of Interest Payments: Semiannually, in arrears.

Interest Payment Dates: February 1 and August 1 in each year.

Principal Payment Dates: February 1 and August 1 in each year.

First Interest Payment Date: August 1, 1983

First Principal Payment Date: February 1, 1984

Last Principal Payment Date: February 1, 1990

**Lender's Payment
Instructions:**

Wire transfer of immediately available funds to Manufacturers Hanover Trust Company, 40 Wall Street, New York, New York 10015 for credit to Sun Life Assurance Company of Canada (U.S.) Account No. 144-0-53101 (with sufficient information to identify the source and application of the funds so wired).

**Beneficiary's Payment
Instructions:**

Wire transfer of immediately available funds to The Connecticut Bank and Trust Company, N.A., One Constitution Plaza, Hartford, Connecticut 06115, Attention: South Wire Room, for deposit to Litton Equity Investments, Inc. Operating Account No. 1-37976-1 (with sufficient information to identify the source and application of the funds so wired), with a copy of such wire transfer advice to be furnished to the Beneficiary at its address set forth in, or designated pursuant to, Section 14 of the Participation Agreement.

EXHIBIT C
to
Loan Agreement

Form of Note

**THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES
ACT OF 1933, AS AMENDED, AND MUST BE HELD INDEFINITELY
UNLESS SO REGISTERED OR TRANSFERRED IN A TRANSACTION
EXEMPT FROM REGISTRATION.**

No.

\$

THE CONNECTICUT BANK AND TRUST COMPANY, N.A.
not in its individual capacity, but solely as
trustee under a Trust Agreement dated as of
January 15, 1983 between it and Litton Equity
Investments, Inc.,
as beneficiary

PROMISSORY NOTE, SERIES _____
(Secured by Lease Obligations of St. Louis Southwestern Railway
Company)

THE CONNECTICUT BANK AND TRUST COMPANY, N.A., a national association, not in its individual capacity, but solely as trustee (the **Borrower**) under a Trust Agreement dated as of January 15, 1983 between it and Litton Equity Investments, Inc., as beneficiary (the **Beneficiary**), for value received, hereby promises to pay to the order of **SUN LIFE ASSURANCE COMPANY OF CANADA (U.S.)**, or assigns, but only from the funds designated below, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, the principal sum of \$ _____ and to pay interest on the unpaid principal balance hereof at a rate per annum equal to 12.25% from and including the date of this Note to but excluding the date payment in full of the principal amount of this Note is made. Interest only (computed on the basis of a 360-day year and actual days elapsed) shall be payable on August 1, 1983. Principal and interest payments (computed on the basis of a 360-day year and twelve months of 30 days each) shall be made in installments on February 1 and August 1 in each year commencing February 1, 1984 and ending February 1, 1990. The last such payment shall be in an amount sufficient to discharge all unpaid principal of and premium, if any, and accrued interest on this Note in full. The amount of each such installment shall be as set forth on the Loan Schedule attached hereto, subject to adjustment as provided in the Mortgage, Loan and Security Agreement dated as of January 15, 1983 between the Borrower and Sun Life Assurance Company of Canada (U.S.), as Lender (the **Loan Agreement**).

This Note shall bear interest, payable only from the funds designated below, at the rate of 13.25% per annum, but in no event at a rate per annum greater than that permitted by applicable law (Overdue Rate), on any part of the principal hereof not paid when due for any period during which the same shall be overdue.

All payments of principal, premium, if any, and interest to be made by the Borrower on the Notes of which this Note is one shall be made only from the income or proceeds from the Estate (as defined in the Loan Agreement) and the owner or other holder hereof, by its acceptance of this Note, agrees that it will look solely to the income and proceeds from such Estate to the extent available for distribution to the owner hereof as above provided and that neither the Beneficiary nor the Borrower shall be personally liable to the owner or other holder hereof for any amounts payable under this Note or, except as provided in Section 3.6 of the Loan Agreement, for any liability under the Loan Agreement or the Participation Agreement to which reference is made in the Loan Agreement.

Unless other arrangements for payment are made in accordance with Section 3.7 of the Loan Agreement, principal, premium, if any, and interest shall be payable by wire transfer of immediately available funds to Manufacturers Hanover Trust Company, 40 Wall Street, New York, New York 10015 for credit to Sun Life Assurance Company of Canada (U.S.) Account No. 144-0-53101 (with sufficient information to identify the source and application of the funds so wired).

This Note is one of the Notes which have been or are to be issued by the Borrower pursuant to the terms of the Loan Agreement. Reference is hereby made to the Loan Agreement for a statement of the rights of the owners or other holders of, and the nature and extent of the security for, this Note and the other Notes issued under the Loan Agreement, to all of which terms and conditions each owner or other holder hereof agrees by its acceptance of this Note.

This Note is subject to prepayment upon the terms and conditions provided in Article V of the Loan Agreement.

In case an Event of Default (as defined in the Loan Agreement) shall occur and be continuing, the unpaid principal of this Note, together with accrued interest hereon, may become or be declared due and payable in the manner, with the effect and subject to the conditions, provided in the Loan Agreement.

Each payment on this Note shall be applied in the manner set forth in Article VI of the Loan Agreement.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed by one of its officers thereunto duly authorized, as of the date hereof.

Dated:

**THE CONNECTICUT BANK AND TRUST
COMPANY, N.A.**, not in its individual capacity but solely as trustee under a Trust Agreement dated as of January 15, 1983 between it and Litton Equity Investments, Inc., as beneficiary

By_____

Title:_____

LOAN SCHEDULE

<u>Principal Payment Date</u>	<u>Payment (consisting of principal and interest on unpaid principal) per Principal Payment Date based upon \$1,000,000 Principal Amount of Notes</u>
2/1/84	\$121,029.41
8/1/84	121,029.41
2/1/85	121,029.41
8/1/85	121,029.41
2/1/86	121,029.41
8/1/86	121,029.41
2/1/87	121,029.41
8/1/87	121,029.41
2/1/88	121,029.41
8/1/88	121,029.41
2/1/89	118,353.06
8/1/89	66,751.57
2/1/90	43,779.02