RECORDATION NO. 11527 Filed 1425

FEB 22 1980 - 11 20 AM

INTERSTATE COMMERCE COMMISSION

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NSG NO.

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

ROBERT W. ALVORD
ALBERT H. GREENE
CARL C. DAVIS*
CHARLES T. KAPPLER
JOHN H. DOYLE
MILTON C. GRACE*
GEORGE JOHN KETO**
RICHARD N. BAGENSTOS

* NOT A MEMBER OF D.C. BAR
** ALSO A MEMBER OF OHIO BAR

LAW OFFICES
ALVORD AND ALVORD
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440348 CDAA UI

February 22, 1980

0-053A030

FEB 22 1980
Date
Fee $ 50.00
ICC Washington, D. C.

Secretary
Interstate Commerce Commission
Washington, D.C. 20434

Dear Madam:

Enclosed for recordation pursuant to the provisions of Section §11303(a) of Title 49 of the United States Code and the regulations thereunder are 1) Security Agreement dated as of February 21, 1980; 2) Letter Agreement dated February 21, 1980 and 3) Lease and Management Agreement dated February 21, 1980.

A general description of the railroad equipment covered by the enclosed documents is:

Twenty (20) 70-ton rebuilt railroad boxcars Type XM bearing reporting mark and numbers HCRC 1036 through 1046, 1051, 1052, 1054 through 1058, 1060 and 1061.

CTK

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

Security Agreement dated as of February 21, 1980

DEBTOR: Funding Systems Railcars, Inc.
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15238

SECURED PARTY: American National Bank and Trust Company of Chicago
33 North LaSalle Street
Chicago, Illinois 60690

Letter Agreement dated February 21, 1980

ADDRESSOR: Refco Transport Equipment, Inc.
39 South LaSalle Street
Chicago, Illinois 60603

ADDRESSEE: American National Bank and Trust
Company of Chicago
33 North LaSalle Street
Chicago, Illinois 60690

Lease and Management Agreement dated as of February 21, 1980

LESSOR: Funding Systems Railcars, Inc.
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15238

LESSEE/MANAGER: Upper Merion & Plymouth Railroad Company
P.O. Box 404
Conshohocken, Pennsylvania 19428

The undersigned is agent for the Debtor/Lessor and Addressee mentioned in the enclosed documents for the purpose of submitting the enclosed documents for recordation and has knowledge of the matters set forth therein.

Also enclosed is a remittance in the amount of $150 in payment of the required recordation fee.

Very truly yours,

ALVORD AND ALVORD,
as Agent

By Charles T. Kappler
Charles T. Kappler

936(a)/B-1

20 Cars

ICC Copy

RECORDATION NO. 11527 Filed 1425

FEB 22 1980 -11 20 AM

INTERSTATE COMMERCE COMMISSION

LEASE AND MANAGEMENT AGREEMENT

Dated as of February 21, 1980

BETWEEN

FUNDING SYSTEMS RAILCARS, INC.

LESSOR

AND

UPPER MERION & PLYMOUTH RAILROAD COMPANY

LESSEE/MANAGER

LEASE AND MANAGEMENT AGREEMENT

THIS LEASE AND MANAGEMENT AGREEMENT dated as of February 21, 1980 (this "Agreement"), between FUNDING SYSTEMS RAILCARS, INC., a Delaware corporation (the "Lessor") and UPPER MERION & PLYMOUTH RAILROAD COMPANY, a Pennsylvania corporation (the "Lessee" or the "Manager"):

RECITALS:

A. American National Bank and Trust Company of Chicago (the "Note Purchaser" or "Secured Party") has entered into a Finance Agreement dated as of the date hereof (the "Finance Agreement") with the Lessor in order to finance the rebuilding of the railroad equipment described in Schedule A hereto (collectively, the "Equipment" or "Items of Equipment" and individually, an "Item of Equipment" or "Item").

B. The financing of the rebuilding of the Equipment will be completed by means of issuance of a certain secured note or notes (the "Note" or "Notes") to the Secured Party.

C. The payment of the Notes is secured by certain Collateral, as said term is defined in a certain Security Agreement (the "Security Agreement") of even date herewith between Lessor as debtor and Secured Party and is guaranteed pursuant to a certain guaranty of FSC Corporation (the "Guaranty").

D. The Equipment is being rebuilt by Itel Corporation ("Builder") pursuant to a certain agreement (the "Rebuilding Order") dated as of July 13, 1979 as amended.

E. Upon the rebuilding of the Equipment and subject to a security interest in the Equipment for the benefit of the Secured Party, Lessor will lease the Equipment to and cause the Equipment to be managed by the Lessee and assign this Agreement to the Secured Party.

NOW, THEREFORE, in consideration of these premises and of the rental to be paid and the covenants hereinafter mentioned the parties hereby agree as follows:

Section 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1 Intent to Lease and Manage. Upon delivery of each Item of Equipment to the Lessee and acceptance thereof by the Lessee as hereinafter provided, the Lessee shall lease from the Lessor, and manage for the Lessor, such Items of Equipment for the rental and on and subject to the terms and conditions hereinafter set forth.

1.2 Inspection and Acceptance. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of each Item of Equipment pursuant to the Rebuilding Order. The Lessor will cause each Item of Equipment to be tendered to the Lessee at the place of delivery specified in the Rebuilding Order. Upon such tender, the Lessee will cause an inspector designated and authorized by the Lessee to inspect the same, and, if such Item of Equipment is found to be in good order and in accordance with the specifications in the Rebuilding Order, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor and the Builder a Certificate of Acceptance (the "Certificate of Acceptance") substantially in the form attached hereto as Schedule B with respect to such Item of Equipment whereupon, except as hereinafter provided, such Item shall be deemed to have been delivered and accepted by the Lessee hereunder and subject thereafter to this Agreement; provided however, that the Lessee shall not accept and the Lessor shall have no obligation to lease, as lessor, and permit Lessee to manage any Item of Equipment excluded from the Rebuilding Order by the express terms of such Rebuilding Order and such delivery, inspection or acceptance of an excluded Item of Equipment shall be null and void and ineffective to subject such Item to this Agreement or to constitute acceptance thereof on behalf of the Lessor for any purpose whatsoever.

Section 2. RENTALS, PAYMENT DATES, AND OTHER AGREEMENTS

2.1 Rent for Equipment. The Lessee agrees to pay to the Lessor as rental for each Item of Equipment as set forth in Schedule A, attached hereto and made a part hereof, the sum of $965.18 per quarter (for a total of $19,303.60 per quarter for all of the Equipment), except that the first

two rental payments shall be an amount equal to any interest payments required to be made by Lessor in connection with the Notes.

2.2 Rent Payment Dates. Rental shall be payable in quarterly installments on March 1, June 1, September 1, and December 1 of each year during the term of this Agreement. The first installment of rental for each Item of Equipment shall be due and payable on June 1, 1980 and the last installment shall be due and payable on September 1, 1992. If any payment date is not a business day, the rent payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Agreement, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the Commonwealth of Pennsylvania are authorized or required by law to remain closed.

2.3 Place and Manner of Rent Payment. The Lessor hereby irrevocably instructs that payments provided for in this Lease and Management Agreement to be made by the Lessee to the Lessor shall be made to the Lessor by wire transfer of federal funds or otherwise immediately available funds for the account of the Lessor in care of the Secured Party with instructions to apply such payments, first, to satisfy the obligations of the Lessor under the Notes and second, so long as no default shall have occurred and be continuing hereunder or under the Security Agreement, as the Lessor may direct.

2.4 Net Lease. This Agreement is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent or any other sums due or owing hereunder or payable by Lessee to any person or entity hereunder, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Agreement or against any other person or entity, provided that nothing herein shall be deemed to impair the Lessee's right to assert and sue upon such claims in separate actions; nor, except as otherwise expressly provided herein, shall this Agreement terminate or the obligations of the Lessor or the Lessee be otherwise affected by reason of any defect or damage to or loss of possession or loss of use or destruction of all or any of the Items of Equipment from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Items of Equip-

ment, the prohibition of or other restriction against the Lessee's or any other person's use of all or any of the Items of Equipment, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Agreement, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee or any other person, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Agreement. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it by statute or otherwise, to terminate, cancel, quit or surrender the Agreement or any of the Items of Equipment except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

Section 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery to and acceptance by the Lessee of such Item of Equipment as provided in Section 1.2 hereof and, subject to the provisions of Sections 12, 15 and 19 hereof, and of the next succeeding paragraph, shall terminate on September 1, 1992. The obligations of the Lessee hereunder arising during the term of this Agreement or as may otherwise be specifically provided for herein shall survive the expiration of the term of this Agreement.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Agreement and in and to the Items of Equipment are subject to the rights of the Secured Party under the Security Agreement including the security interest of the Secured Party in the Equipment which security interest is prior to the rights of the Lessee hereunder and the leasehold estate granted hereunder. Without limiting the foregoing, if an event of default shall have occurred and be continuing under the Security Agreement, the Secured Party may terminate this Agreement and thereupon the Lessee will return the Equipment in accordance with the terms of Section 16 hereof.

Section 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1 Retention of Title. The Lessor, its successors and assigns shall and hereby do retain full legal title to the Equipment notwithstanding the delivery thereof to, and management, possession and use thereof by, the Lessee.

4.2 Duty to Number and Mark Equipment. The Lessee will, at its expense, cause each Item of Equipment to be kept numbered with the identifying number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed upon each side of each Item of Equipment in letters not less than one inch in height as follows:

> "Leased from a corporation and subject to a security interest recorded with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Agreement, the rights of the Secured Party and the rights of any other assignee under Section 17 hereof. The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Item of Equipment except with the prior consent of the Lessor and in accordance with a statement of new identifying numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Agreement shall have been or shall be required to be filed, recorded or deposited and the Lessee shall have furnished to Lessor, the Secured Party and each holder of a Note an opinion of counsel to such effect.

4.3 Prohibition Against Certain Designations. Except as provided in this Section 4, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the

names or initials or other insignia customarily used by the Lessee on such equipment used by it of the same or a similar type for convenience of identification of the right of the Lessee to use the Equipment under this Agreement.

Section 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT AS IS, WITHOUT WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, AS TO THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OR AS TO THE VALUE, CONDITION, DESIGN OR OPERATION OF, OR THE WORKMANSHIP IN, ANY ITEM OF EQUIPMENT DELIVERED HEREUNDER OR TITLE TO THE EQUIPMENT OR ANY COMPONENT THEREOF, THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF (EXCEPT AS TO ACTS OF THE LESSOR OR ANY PERSON CLAIMING THROUGH THE LESSOR), OR ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. So long as an Event of Default has not occurred and is not continuing hereunder and an event of default has not occurred and is not continuing under the Security Agreement, the Lessor hereby appoints and consitutes the Lessee its agent and attorney-in-fact during the term of this Agreement to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against any builders, or contractors in respect thereof. The Lessee's delivery of a Certificate of Acceptance to the Lessor shall be conclusive evidence as between the Lessor and the Lessee that all Items described therein are satisfactory to the Lessee and the Lessee will not assert any claims of any nature whatsoever against the Lessor based on the foregoing matters.

Section 6. LESSEE'S INDEMNITY.

6.1 Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor, and the Secured Party and each holder of a Note and their respective successors and assigns from and against: all losses, damages, injuries, liabilities, claims, demands, costs, charges and expenses whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, royalty payments and expenses, patent liabilities, penalties and interest arising out of or as the result of the entering into or the performance of, or the occurrence of a default under, this Lease, the Security Agreement, the

ownership of any Item of Equipment, the ordering, acquisition, use, operation, condition, purchase, sublease, delivery, rejection, construction, storage or return of any Item of Equipment or any design, system, process, formula, combination, article or material used or contained therein or in the construction thereof or any accident in connection with the operation, use, condition, possession, storage or return of any Item of Equipment resulting in damage to property or injury or death to any person, whether as a result of negligence, the application of the laws of strict liability, or otherwise except as otherwise provided in Sections 6.2 and 14 of this Agreement and except for United States federal income tax payable by the recipient in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts.

6.2 Exceptions to Indemnity. The indemnity contained in Section 6.1 hereof shall not extend to any loss, damage, injury, liability, claim, demand, cost, charge, or expense incurred by any indemnified party (a) caused by the willful misconduct or gross negligence of such indemnified party, (b) resulting from acts or events with respect to any Item of Equipment which commence after possession of such Item of Equipment has been redelivered to the Lessor in accordance with Section 14 hereof (unless resulting from acts or omissions of the Lessee while such Item of Equipment is being stored by the Lessee in accordance with Section 14 hereof), (c) caused by the violation by such indemnified party of any banking, investment, insurance or securities law, rule or regulation applicable to it (unless such violation shall be the result of any written misrepresentation, violation or act of the Lessee), (d) arising from the breach of an express duty, obligation, representation or warranty of such indemnified party made herein or in any of the documents related to the transctions contemplated hereby, (e) which is related to any lien, charge, security interest or other encumbrance which the Lessee is not required by Section 9 hereof to pay or discharge or (f) otherwise expressly stated herein or in any of the other documents related to the transactions contemplated hereby to be borne by such indemnified party.

6.3 Continuation of Indemnities and Assumptions. The indemnities arising under this Section 6 shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of this Agreement. The indemnities required to be paid by the

Lessee to the Lessor under this Section shall be of an amount sufficient to restore the Lessor to the same position, after considering the actual net effect of the receipt of such indemnities and matters giving rise to such indemnities on its United States federal income taxes and state and city income taxes or franchise taxes based on net income, that it would have been in had the indemnities not been required.

Section 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply, and require every user of an Item of Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of each Item of Equipment) with all laws of the jurisdictions in which its or such user's operations involving an Item of Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power of jurisdiction over an Item of Equipment, to the extent that such laws and rules affect the title, operation or use of an Item of Equipment, and in the event that such laws or rules require any alteration of an Item of Equipment, or in the event that any equipment or appliance on an Item of Equipment shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on an Item of Equipment in order to comply with such laws or rules, the Lessee will make such alterations, changes, replacements and additions at its own expense; provided, however, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor, the Secured Party or any other holder of the Notes adversely affect the property or rights of the Lessor, the Secured Party or any other holder of the Notes under this Agreement or under the Security Agreement.

Section 8. MAINTENANCE OF EQUIPMENT.

8.1 Standards of Maintenance. The Lessee shall use the Equipment only in the manner for which it was designated and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep each Item of in good order, condition and repair so that each Item will remain (a) in as good operating

condition as when delivered (ordinary wear and tear excepted), (b) in compliance with any and all applicable laws and regulations and (c) desirable to and suitable for immediate purchase or lease and use by a Class I railroad as defined in 49 U.S.C. Sub-title IV (not then or prospectively a debtor in any insolvency or reorganization proceeding).

8.2 Improvements. Except as required by the provisions of Section 7 hereof, the Lessee shall not make any permanent or other material modification to any Item of Equipment without the prior written authority and approval of the Lessor which shall not be unreasoanbly withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 7 hereof or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 8 shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. The Lessee shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment, the Lessee agrees that it will, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment. Title to any such readily removable additions or improvements shall remain with the Lessee.

Section 9. LIENS ON THE EQUIPMENT.

The Lessee will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than the security interest of the Secured Party resulting from the transactions contemplated hereby and other than an encumbrance resulting from claims against the Lessor not related to the ownership of the Items of Equipment) upon or with respect to any Item of Equipment, including any accession thereto, or any part thereof or the interest of the Lessor, any assignee thereof or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises; provided, however, that the Lessee shall be under no obligation to pay or discharge such claim so long as it is contesting the validity thereof in good faith in a reasonable manner and by appropriate legal proceedings

and the nonpayment thereof does not, in the opinion of the Lessor, the Secured Party, and each holder of Notes adversely affect the title, property or rights of the Lessor, Secured Party, or each holder of the Notes or any assignee thereof. If any such claim shall have been charged or levied by anyone and in any manner against the Lessor, the Secured Party, or any holder of the Notes directly and paid by the Lessor, the Secured Party, or such holder of the Notes, the Lessee shall reimburse the Lessor, the Secured Party, the Note Purchaser or such holder of the Notes on presentation of an invoice therefor, provided that the Lessor, the Secured Party, or such holder of the Notes shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor, the Secured Party, or such holder of the Notes) or the Lessee shall have approved the payment thereof.

Section 10. FILING, PAYMENT OF EXPENSES AND TAXES

10.1 Filing, Expenses. Prior to the first delivery of an Item of Equipment, the Lessee will cause this Lease and Management Agreement and the Security Agreement to be duly filed, registered or recorded with the Interstate Commerce Commission in accordance with 49 U.S.C Section 11303 and in such other places within or without the United States as the Lessor, the Secured Party or any holder of Notes may reasonably request for the protection of its title or its security interest, as the case may be, and will furnish the Lessor and the Secured Party proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Secured Party or any other holder of the Notes for the purpose of protecting the Lessor's title to, or the Secured Party's security interest in, the Equipment and this Agreement to the satisfaction of the Lessor's and the Secured Party's counsel or for the purpose of carrying out the intention of this Agreement, and, in connection with any such action, will promptly deliver to the Lessor and the Secured Party proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, refiling, recording and re-recording or depositing and redepositing of any such instruments or incident to the taking of such action.

The Lessor will pay all reasonable costs and expenses incident to the preparation of this Agreement, the Security Agreement, the Finance Agreement and any agreement or instrument supplemental or related thereto, and the fees and expenses, including counsel fees, of the Secured Party.

10.2 Payment of Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other similar charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or foreign taxes (other than any United States federal income tax payable by the recipient in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the recipient has its principal place of business) or license fees, assessments, charges, fines, interests and penalties (all such expenses, taxes, license fees, assessments, charges, fines, interests and penalties being hereinafter called "Impositions") hereinafter levied or imposed upon or in connection with or measured by this Agreement or any sale, possession, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or in connection with the transactions contemplated herein, all of which Impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Item of Equipment free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien upon any such Item; provided, however, that the Lessee shall be under no obligation to pay any Imposition of any kind so long as it is contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the opinion of the Lessor or any holders of Notes, adversely affect the title, property or rights of the Lessor hereunder or the Secured Party or any holders of Notes under the Security Agreement; and provided, further, that the Lessee shall not be required to pay any Imposition or reimburse any person for any loss, cost or expense related to any Imposition which is the subject of any lien, charge, security interest or other

encumbrance which the Lessee is not required by Section 9 hereof to pay or discharge. If any Imposition shall have been charged or levied against the Lessor, the Secured Party or such holder of the Note directly and paid by such party, the Lessee shall reimburse such party on presentation of an invoice therefor if such party shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Lessor) or the Lessee shall have approved the payment thereof.

In the event any reports or returns with respect to Impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor, the Secured Party and any other assignee under Section 17 hereof in such Items of Equipment or notify the Lessor, the Secured Party and any other assignee under Section 17 hereof of such requirements and make such reports in such manner as shall be satisfactory to the Lessor, the Secured Party and any other assignee under Section 17 hereof.

In the event that, during the continuation of this Agreement, the Lessee becomes liable for the payment or reimbursements of any Imposition pursuant to this Section 10, such liability shall continue, notwithstanding the expiration of this Agreement, until all such Impositions are paid or reimbursed by the Lessee.

Section 11. ADDITIONAL DUTIES.

11.1 Additional Duties. In addition to the other duties and obligations of the Lessee hereunder, the Lessee shall also perform the following:

(a) Prepare for filing all documents relating to the registration, maintenance and record keeping functions for the Equipment in accordance with the rules and regulations of the Association of American Railroads, Interstate Commerce Commission , the Department of Transportation and any other governmental or industry authority. Such matters shall include (without limitation) the preparation of the following documents: (i) appropriate Association of American Railroad interchange agreements with respect to the Equipment; (ii) registration of each Item of Equipment in the Official Railway Equipment Register and the Universal Machine Language Equipment Register (such registration directing that correspondence from railroads using such Items of Equipment be addressed to the Lessee); and (iii) such reports as may be

required from time to time by the Interstate Commerce Commission and other regulatory agencies with respect to the Equipment.

(b) Perform all accounting services for the Equipment.

Section 12. INSURANCE: PAYMENT FOR CASUALTY OCCURRENCE

12.1 Insurance. (a) The Lessee will maintain or cause to be maintained, at all times during the term of this Agreement and any renewals thereof (and thereafter during the period in which the Equipment is being returned or stored pursuant to Sections 14 and 16 hereof), with insurance carriers having one of the three highest ratings as reported by A. M. Best Company, Inc. (or other insurance rating agency of comparable standing) or other reputable insurance carriers reasonably acceptable to the Lessor and the Secured Party, property insurance in an amount equal to the Casualty Value of each Item of Equipment leased hereunder, insuring against loss and destruction of, and damage to, such Item arising out of physical damage caused by fire, windstorm, explosion and all other hazards and risks ordinarily subject to extended coverage insurance, and against such other hazards and risks as are customarily insured against by companies owning or leasing property of a similar character or engaged in a business similar to that engaged in by the Lessee with a deductible amount not in excess of $500 per Item of Equipment. All such insurance policies shall (i) name the Lessor, the Secured Party and the Owner, as, defined in Section 6 of the Security Agreement, as additional insureds, (ii) provided that the policies will not be invalidated as against the Lessor, the Secured Party or the Owner because of any violation of a condition or warranty of the policy or the application therefor by the Lessee, (iii) provide that the policies may be materially altered or cancelled by the insurer only after thirty (30) days' prior written notice to the Lessor, the Secured Party and the Owner, (iv) provide that the policies shall be prepaid a minimum of ninety (90) days and (v) provide that all of the provisions thereof except the limits of liability for premiums (which shall be solely a liability of the Lessee) shall operate in the same manner as if they were a separate policy covering each insured and shall be primary without right of contribution from any insurance carried by the Lessor or the Secured Party or the Owner. Such insurance policies shall also not have any co-insurance clause.

(b) Each policy shall provide in respect to any losses, that such losses shall be payable to the Secured Party. Upon the release of the Security Agreement and the security interest therein pursuant to Section 7.12 thereof, or if the Secured Party permits pursuant to the provisions of this Agreement or by notice in writing to the Lessor and the Lessee, losses shall be paid to the Lessor and the Lessee, as their interests may appear.

The Lessee shall deliver or cause to be delivered to the Lessor and the Secured Party, prior to the commencement of the lease term for any Item of Equipment (and at such other time or times as the Lessor or the Secured Party may request) and from time to time, but within at least 15 days prior to the expiration date of each policy of such insurance in respect to insurance to be renewed by the Lessee, a certificate signed by a firm of independent insurance brokers appointed by the Lessee and not objected to by the Lessor or the Secured Party, showing the insurance then maintained, or to be maintained in the case of renewals, by the Lessee pursuant to this Section 12 with respect to the Items of Equipment and the expiration date of each policy of such insurance, and stating the opinion of said firm that the insurance then carried and maintained, or to be carried and maintained, on or with respect to the Items of Equipment complies, or will comply, as the case may be, with the terms hereof; provided, however, that the Lessor and the Secured Party shall be under no duty to examine such certificate, opinion or other evidence of insurance, or to advise the Lessee in the event that its insurance is not in compliance with this Agreement.

In the event of failure on the part of the Lessee to provide and furnish or cause to be provided and furnished any of the aforesaid insurance, the Lessor or the Secured Party, upon notice to the Lessee, may procure such insurance and the Lessee shall, upon demand, reimburse the Lessor and the Secured Party for all expenditures made by the Lessor or Secured Party for such insurance, together with interest determined pursuant to Section 20 hereof.

The proceeds of any insurance maintained by the Lessee and received by the Lessor or the Secured Party on account of or for any loss or casualty in respect of any Item of Equipment shall be released to the Lessee either (i) upon a written certification signed by the President, any Vice President or the Treasurer of the Lessee for the payment of, or to reimburse the Lessee for the payment of, the cost of

repairing, restoring or replacing the Item of Equipment which has been lost, damage or destroyed so long as the restoration, replacement and repair parts become immediately subject to all of the terms and conditions of this Agreement (with a further statement that such Item of Equipment has been fully restored, replaced or repaired) and all public filings, recordings and registrations necessary or expedient to perfect title thereto in the Lessor are accomplished by the Lessee at its expense (which application shall be accompanied by satisfactory evidence of such cost and of the completion of such repair, restoration or replacement), or (ii), if this Agreement is terminated with respect to such Item of Equipment pursuant to Section 12.4, promptly, upon payment by the Lessee of the Casualty Value to the Secured Party; provided, however, that any amount payable in respect to clause (ii) shall only be up to an amount equal to any Casualty Value payment made by the Lessee. If the Lessee is at the time of the application in default in the payment of any other liability of the Lessee to the Lessor or the Secured Party, such proceeds shall be applied against such liability.

12.2 Payment of Casualty Value. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged during the term of this Lease and Management Agreement, including any renewal term hereunder or thereafter while the Item of Equipment is in the possession of the Lessee pursuant to Section 14 or 16 hereof, or (except for a requisition or taking which by its terms is for a stated period which does not exceed the remaining term of this Agreement or, in the case of taking or requisition during any renewal term, for a stated period which does not exceed the remaining portion of such renewed term) shall be requisitioned or taken over by any governmental authority for use during the term of this Agreement, including any renewal terms hereunder (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and the Secured Party in regard thereto and shall pay the Casualty Value (as herein defined) of such Item of Equipment in accordance with the terms hereof.

12.3 Sum Payable for Casualty Loss. The Lessee shall, on the next rental payment date following its knowledge of a Casualty Occurrence with respect to any Item of Equipment, pay to the Lessor any rental payment due on such rental payment date for such Item of Equipment plus a sum

equal to the Casualty Value of such Item of Equipment as of the date of such payment. In the event that an Item of Equipment suffers a Casualty Occurrence at the end of the term of this Agreement, or during any extension hereof, or after termination hereof and before such Item shall have been returned in the manner provided in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor promptly upon demand of the Lessor an amount equal to the Casualty Value then in effect.

12.4 Rent Termination. Upon payment of the Casualty Value in respect of any Item of Equipment and rental payment due on such payment date, the obligation to pay rental for such Item of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rental for all other Items of Equipment.

12.5 Disposition of Equipment. Any Item or Items of Equipment having suffered a Casualty Occurrence shall be sold by the Lessee as agent for the Lessor as soon as reasonably possible at the best price obtainable.

Any such disposition shall be on an "AS IS", "WHERE IS" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of, the Lessee may, provided no Event of Default shall have occurred and is continuing, and no event of default under the Security Agreement has occurred and is continuing or has been waived, receive or retain, as the case may be, all amounts of such price plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value attributable thereto, and an amount equal to 10% of such price above the Casualty Value attributable thereto, and shall remit the excess, if any, to the Lessor.

In disposing of such Item or Items of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item or Items of Equipment. Any sale or other disposition pursuant to this Section 12.5 must be effective to fully divest the Lessor of all of the Lessor's right, title and interest in and to, and all obligations of the Lessor with respect to, such Item or Items, except that the Lessor may bid for and become the purchaser of such Item or Items. It is understood and agreed that any out-of-pocket costs or expenses reasonably incurred by the Lessor or the

Lessee in connection with the sale or other disposition of any Item of Equipment shall be deducted from the excess, if any, of sale proceeds over the then applicable Casualty Value in computing any amounts due and owing to the Lessee hereunder and to the extent there is no such excess, the Lessee agrees to reimburse the Lessor for such expenses.

12.6 Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is required to be paid as provided in this Section 12 (and not the date of the Casualty Occurrence) equal to that percentage of the Purchase Price of such Item of Equipment set forth in the Schedule of Casualty Values attached hereto as Schedule C opposite such date of payment.

12.7 Risk of Loss. The Lessee, except as hereinabove in this Section 12 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment after the date hereof until payment of the Casualty Value and rental payments due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

12.8 Eminent Domain. In the event that during the term of this Agreement the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which exceeds the remaining term of this Agreement (or in the case of any renewal hereof for a period which exceeds the then remaining renewal term), the Lessee's duty to pay rent shall terminate as of the rental payment date next succeeding such requisition or taking if the Lessee shall pay to the Lessor the rental payment due on such date plus the Casualty Value for such Item as of such date then due and owing pursuant to Sections 12.2 and 12.3 hereof. In the case of any other requisition or taking, the Lessee's duty to pay rent and to perform all other obligations hereunder shall continue as if no such requisition or taking had occurred. So long as no Event of Default shall have occurred and be continuing under this Agreement, and no Event of Default under the Security Agreement has occurred and is continuing or has been waived, the Lessee shall (a) be entitled to receive and retain for

its own account all sums payable for any taking which is not for a period which exceeds the term of this Agreement (or does not exceed the period of any extension hereof, as the case may be) by such governmental authority as compensation for requisition or taking of possession up to an amount equal to the rental paid or payable hereunder for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property; and (b) shall, in the event the Lessee has paid the Casualty Value of the Equipment, be entitled to the proceeds from the sale of the Equipment as and when the same is sold up to the Casualty Value of the Equipment with the excess thereof to be retained by the Lessor.

Section 13. FINANCIAL AND OTHER REPORTS.

13.1 Status Reports. On or before January 15 in each year, commencing with the year 1981, the Lessee will furnish to the Lessor, the Secured Party and each holder of the Notes or its assigns an accurate statement as of the end of the preceding calendar year signed by the President or any Vice President of the Lessee (a) showing the numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that have suffered a Casualty Occurrence during such calendar year (or since the date of this Agreement, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4 hereof shall have been preserved or replaced, (c) describing the insurance coverage maintained by the Lessee pursuant to Section 12.1 hereof, and (d) stating that a review of the activities of the Lessee during such year has been made under his supervision with a view to determining whether the Lessee has kept, observed, performed and fulfilled all of its obligations under this Agreement and that, to the best of his knowledge, the Lessee has during such year kept, observed, performed and fulfilled all such covenants, obligations and conditions contained or referred herein, or if an Event of Default, or an event which with the passage of time or the giving of notice or both would cause an Event of Default, has occurred and is continuing, specifying such Event of Default and all such events and the nature and status thereof and what action the Lessee proposes to take with respect thereto.

13.2 Financial Reports. Lessee agrees that it will furnish, or cause to be furnished to the Lessor, the Secured Party and any other holder of the Notes the following:

(a) As soon as available, and in any event within 120 days after the end of each fiscal year, copies, in comparative form with the preceding fiscal year, of the consolidated balance sheet of Lessee as at the end of such fiscal year, and of the consolidated statements of income and retained earnings of the Lessee for such fiscal year in reasonable detail and stating in comparative form the consolidated figures as of the end of and for the previous fiscal year, and certified by the President or chief financial officer of Lessee as being prepared in accordance with Interstate Commerce Commission accounting regulations and certified as being true and correct copies of those financial statements filed with the Interstate Commerce Commission.

(b) As soon as available, and in any event within 45 days after the end of each quarter in each fiscal year a copy of the consolidated balance sheet of Lessee as at the end of such quarter and a copy of the consolidated statement of income and retained earnings of Lessee for the period from the beginning of such fiscal year to the end of such quarter, all in reasonable detail and certified by the President or chief financial officer of Lessee as being prepared in accordance with generally accepted accounting principles.

(c) Such additional information as the Lessor, the Secured Party, or any other holder of the Notes may reasonably request concerning the Lessee.

13.3 Lessor's Equipment Inspection Rights. (a) The Lessor and the Secured Party each shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times during normal business hours as shall be reasonable to confirm to the Lessor or the Secured Party the existence and proper maintenance thereof during the continuance of this Agreement.

(b) The Lessee shall deliver to the Lessor and the Secured Party and the holders of the Notes such additional information as the Lessor, or the Secured Party and any such holder of the Notes may reasonably request concerning the Lessee, in order to enable such party to determine whether the covenants, terms and provisions of this Agreement have been complied with by the Lessee.

13.4 Inspection Rights. The Lessee agrees to permit each of the Lessor, the Secured Party (or such persons as the Lessor or such Secured Party may designate) and the holders of the Notes and the Owner to visit and inspect and examine as shall be reasonable the records or books of account of the Lessee relating to the Equipment and to discuss the affairs, finances and accounts of the Lessee relating to the Equipment with its officers and independent accountants upon prior notice to the Lessee, during normal business hours.

Section 14. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM

Upon the expiration of the term of this Agreement or any extension thereof, the Lessee will, at the cost and expense of the Lessor, deliver possession of the Equipment to the Lessor upon such storage tracks within the continental United States and store the Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90-day period for any connecting carrier for shipment, all as directed by the Lessor upon not less than thirty (30) days' written notice to the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Item of Equipment, to inspect the same. All movement and storage of each Item of Equipment is to be at the risk and expense of the Lessor except in the case of negligence or willful misconduct of the Lessee, or of its employees or agents, resulting in the death of any person, any injury to any person or property or any damage to the Equipment while delivering possession of it to the Lessor or storing it in accordance with this Section. All per diem and incentive per diem charges (and charges similar thereto) earned or paid to the Lessee in respect of the Equipment after the date of termination of this Agreement, or any extension thereof, shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor.

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

Section 15. DEFAULT.

15.1 Events of Default. If, during the continuance of this Agreement, one or more of the following events (each such event being herein called an Event of Default) shall occur:

(a) Default shall be made in the payment of any part of the rental or other sums provided in Section 2 hereof or in the payment of any other monies required to be paid by Lessee hereunder and such default shall continue for five days; or

(b) Any representation or warranty made by the Lessee herein or pursuant hereto or in any statement or certificate furnished to the Lessor, the Secured Party or any holder of the Notes pursuant to or in connection with this Agreement shall have been untrue in any material respect when made; or

(c) The Lessee shall make or permit any unauthorized assignment or transfer of this Agreement or possession of the Equipment or any portion thereof; or

(d) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for thirty (30) days after written notice from the Lessor or the Secured Party or any holder of the Notes to the Lessee, specifying the default and demanding the same to be remedied; or

(e) Any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder, under any bankruptcy or insolvency law or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or

for the property of the Lessee in connection with any such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(f) Any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, modification of the obligations of the Lessee under this Lease under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, and unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue) and subsequently the Secured Party or any holder of the Notes makes a determination within 60 days after the commencement of any such proceedings that it will be inadequately secured; then, in any such case, the Lessor, at its option, may:

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Agreement or to recover damages for the breach thereof, including reasonable attorneys' fees and expenses; or

(2) by notice in writing to the Lessee, terminate this Agreement, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Agreement had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located, without judicial process if this can be done without breach of the peace, and take possession of all or any of such Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Equipment for any purpose whatever; provided, however, that the Lessor shall have a right to recover from the

Lessee any and all amounts which under the terms of this Agreement may be then due or which may have accrued to the date of such termination and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, whichever one of the following sums the Lessor, in its sole discretion, shall specify with respect to all items of Equipment by written notice to the Lessee: (x) a sum with respect to each Item of Equipment then leased hereunder, which represents the excess of the present value, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Agreement over the then present value of the then Fair Rental Value of such Item (determined as described hereinafter) for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of the Item during such period, such present value to be computed in each case on a basis of a 13% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Agreement not been terminated, or (y) an amount equal to the excess, if any, of the Casualty Value of each Item of Equipment then leased hereunder as of the rental payment date on or immediately preceding the date of termination over the Fair Market Value thereof (determined as described hereinafter); provided, however, that in the event the Lessor shall have sold any Item of Equipment, the Lessor in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) or (y) of this part with respect thereto, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment, as of the rental payment date on or immediately preceding the date of termination over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as may otherwise be provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies, for all reasonable attorneys fees and other expenses by reason of the occur-

rence of an Event of Default or the exercise of the Lessor's remedies in respect thereto.

The Fair Rental Value and the Fair Market Value of an Item of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee or buyer-user, as the case may be, (other than a lessee currently in possession or a used equipment dealer) and an informed and willing lessor or seller under no compulsion to lease or sell, and, in such determination costs of removal from the location of current use shall not be a deduction from such value. The Fair Rental Value of an Item of Equipment, or the Fair Market Value, as the case may be, shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean two independent appraisers, one chosen by the Lessor and one chosen by the Lessee, or, if such appraisers cannot agree on the amount of such value within 60 days, determined on the basis of an appraisal made by third appraiser chosen by the American Arbitration Association. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

15.2 Cumulative Remedies. The remedies in this Agreement provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rental payments due hereunder, and agrees to make the rental payments regardless of any offset or claim which may be asserted by the Lessee on its behalf against any other party (which offsets and claims, if any, the Lessee reserves to assert against any such party) in connection with the lease of the Equipment.

15.3 Lessor's Exercise of its Rights. The failure or delay of the Lessor or its assigns to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies. The singular or partial exercise of any such right shall also not preclude any other or further exercise thereof, or the exercise of any other right of the Lessor hereunder.

Section 16. RETURN OF EQUIPMENT UPON DEFAULT.

16.1 Lessee's Duty to Return. If the Lessor or its assigns shall terminate this Agreement pursuant to Section 15 or because of an event of default under the Security Agreement, the Lessee shall forthwith deliver possession of the Equipment to the Lessor in the condition such Equipment is required to be maintained hereunder. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) Forthwith, but in any event within 30 days, assemble and place each such Item of Equipment upon such storage tracks as the Lessor may reasonably designate within the continental United States or, in the absence of such designation, as the Lessee may select;

(b) Provide storage at the risk of the Lessee for each Item of Equipment on such tracks without charge for insurance, rent or storage until such Equipment has been sold, leased, or otherwise disposed of by the Lessor; and

(c) Transport the Equipment to any place of interchange on the lines of a railroad within a 25-mile radius of such storage tracks, all as the Lessor may reasonably direct upon not less than thirty (30) days written notice to the Lessee.

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

16.3 Lessor Appointed Lessee's Agent. Without in any way limiting the obligations of the Lessee, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Item of Equipment to the Lessor pursuant hereto, to demand and take possession of such Item of Equipment in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item of Equipment provided that the Lessee shall have received five days prior written notice of any such demand and/or retaking.

16.4 Lessee Waiver. The Lessee hereby expressly waives any and all claims against the Lessor and its assigns or agents for damages of whatever nature in connection with the retaking of any Item of the Equipment in any reasonable manner.

Section 17. ASSIGNMENT BY LESSOR

This Agreement and all rent and all other sums due to become due hereunder are being assigned by the Lessor pursuant to the Security Agreement. The rent and other sums payable by the Lessee which are the subject matter of the Security Agreement shall be paid by the Lessee directly to the Secured Party. Without limiting the foregoing, the Lessee further acknowldeges and agrees that (i) the rights of the Secured Party and the holders of the Notes in and to the sums payable by the Lessee under any provisions of this Agreement shall not be subject to any abatement whatsoever, and shall not be subject to any defense setoff, counterclaam or recoupment whatsoever whether by reason of failure of or defect in the Lessor's interest or any interruption from whatsoever cause in the use, operation or possession of the

Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) the Secured Party shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the Secured Party) which by the terms of this Agreement are permitted or provided to be exercised by the Lessor.

Section 18. ASSIGNMENTS BY LESSEE; USE AND POSSESSION

18.1 Lessee's Rights to the Equipment. So long as the Lessee shall not be in default under this Agreement and no event of default shall have occurred and be continuing under the Security Agreement, the Lessee shall be entitled to the possession and use of the Equipment and to the quiet enjoyment thereof in accordance with the terms of this Agreement. The Lessee shall not assign, transfer or encumber its leasehold interest under this Agreement in any of the Equipment, except to the extent permitted by the provisions of Section 18.2 hereof. The Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, or sublease any of the Equipment, except to the extent expressly permitted by the provisions of this Agreement.

18.2 Use and Possession by Lessee. So long as the Lessee shall not be in default under this Agreement and no event of default shall have occurred and be continuing under the Security Agreement, the Lessee shall be entitled to the possession, use and management of the Items of Equipment in accordance with the terms of this Agreement but, without the prior written consent of the Lessor and any assignee thereof, the Lessee shall not assign or transfer its leasehold interest under this Agreement in the Items of Equipment or any of them except and then only so long as the Lessee shall not then be in default under this Agreement (and subject to this Agreement and to the rights of the Lessor hereunder, and without releasing the Lessee from its obligations hereunder),

under a sublease to a railroad classified by the Interstate Commerce Commission as a Class I or Class II or Class III railroad; and the Lessee shall not, without written consent, except as provided in this Section 18 part with the possession of, or suffer or allow to pass out of its possession or control, any of the Items of Equipment. Every such sublease shall subject the rights of the sublessee under such sublease to the rights of the Lessor in respect of the Items of Equipment covered by such sublease in the event of the happening of an Event of Default.

So long as the Lessee shall not be in default under this Agreement, the Lessee shall be entitled to the possession of the Items of Equipment and to the use of the Items of Equipment by it upon lines of railroad owned or operated by it or upon lines of railroad over which the Lessee has or obtains trackage or other operating rights and also to permit the use of the Items of Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, but only upon and subject to all the terms and conditions of this Agreement; provided, however, that the Lessee shall not assign or permit the assignment of any Items of Equipment to service involving the regular operation and maintenance thereof outside the United States of America; and provided, further, however, that no more than 10% of the Items of Equipment shall be outside the United States at any one time. In addition, Lessee may place the Equipment in interchange service in the national rail system whereby the Equipment will earn per diem and mileage charges as set by the Interstate Commerce Commission.

18.3 Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 18 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Agreement in the Equipment or possession of the Equpment to any solvent corporation (which shall have duly assumed in writing the obligations hereunder of Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have become merged or consolidated or which shall have acquired all, or substantially all, of the property of the Lessee; provided, however, that any such assignee, successor or transferee will not, after giving effect to

such merger or consolidation or acquisition of properties, (a) be in default under any provision of this Agreement, (b) have a net worth (determined in accordance with generally accepted principles of accounting) less than 90% of that of the Lessee immediately preceding such merger, consolidation or acquisition, and (c) have altered in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

Section 19. INTEREST ON OVERDUE RENTALS AND OTHER OBLIGATIONS

Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 16% per annum on the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

Section 20. MISCELLANEOUS.

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

If to the Lessor:

Funding Systems Railcars, Inc.
Suite 404
1000 RIDC Plaza
Pittsburgh, Pennsylvania 15238
Attention: James Schein, President

If to the Secured Party:

American National Bank and Trust Company
of Chicago
33 North LaSalle Street
Chicago, Illinois 60690
Attention: Jonathan P. Hecht, Second
Vice President

If to the Lessee:

Upper Merion & Plymouth Railroad Company
P. O. Box 404
Conshohocken, Pennsylvania 19428
Attention: President

or addressed to any such party at such other address as such party shall hereafter furnish to such other parties in writing.

20.2 Execution in Counterparts. This Agreement may be executed in several counterparts, but the counterparts delivered to the Interstate Commerce Commission for recordation and subsequently redelivered to the Secured Party shall be deemed to be the original counterpart.

20.3 Law Governing. This Lease shall be construed in accordance with the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303 and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

20.4 Headings. All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

20.5 Severability; Effect and Modification of the Lease. Any revision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be as to such jurisdiction 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 provisions in any other jurisdiction.

20.6 Entire Agreement. This Agreement completely states the rights of the Lessor and the Lessee in respect to the Items of Equipment and supersedes all other agreements with respect thereto, oral or written. No modification of this Agreement or waiver of any provision hereof shall be valid unless in writing and signed by the Lessor and the Lessee.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement ot be executed by their respective officers thereto duly authorized and their corporate seals to be hereto affixed as of the day and year first above written.

FUNDING SYSTEMS RAILCARS, INC.

ATTEST: _____
Asst. Sec.

BY: _____
Vice Pres. + Treas.

UPPER MERION & PLYMOUTH RAILROAD COMPANY

ATTEST: _____
Asst. Sec.

BY: _____
Vice Pres. + Treas.

STATE OF Pennsylvania)
: ss.:
COUNTY OF Allegheny)

On this 15th day of February 1980,
before me personally appeared Harold L. Lennox
to me personally know, who being by me duly sworn, says
that he is the V. Pres. & Treas of Funding Systems Rail-
cars, Inc., that one of the seals affixed to the fore-
going instrument was signed and sealed on behalf of said
corporation by authority of its Board of Directors, and
he acknowledged that the execution of the foregoing
instrument was the free act and deed of said corporation.

Lynnann Malloy
Notary Public

My Commission expires:

LYNNANN MALLOY, NOTARY PUBLIC
O'HARA TWP., ALLEGHENY COUNTY
MY COMMISSION EXPIRES SEPT. 19, 1983
Member, Pennsylvania Association of Notaries

STATE OF Pennsylvania)
: ss.:
COUNTY OF Allegheny)

On this 15th day of February 1960, before me personally appeared Harold L. Lennon to me personally known, who being by me duly sworn, says that he is the V. Pres. & Treas. of Upper Merion Plymouth Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lynnann Nancy
Notary Public

My Commission expires:

LYNNANN NANCY, NOTARY PUBLIC
O'HARA TWP., ALLEGHENY COUNTY
MY COMMISSION EXPIRES SEPT. 18, 1963
Member, Pennsylvania Association of Notaries

SCHEDULE A

DESCRIPTION OF EQUIPMENT

Type	Builder's Specifications	Quantity	Equipment Numbers (Inclusive)	Average Unit Re-Building Costs	Total Re-building Costs	Total Acquisition and Rebuild-ing Costs	Delivery
XM	70-ton rebuilt railroad boxcars	20	HCRC 1036 through 1046, 1051, 1052, 1054 through 1058, 1060 and 1061.	$26,550	$531,000	$651,000	Mobile, Alabama

SCHEDULE B

CERTIFICATE OF ACCEPTANCE UNDER
LEASE AND MANAGEMENT AGREEMENT

I, _____, Vice President of the Upper Merion and Plymouth Railroad Company ("UMP") under the Lease and Management agreement, dated as of February 21, 1980 between Funding Systems Railcars, Inc. and UMP, do hereby accept delivery under the Lease and Management Agreement of the following Items of Equipment:

TYPE OF EQUIPMENT:	XM Railroad Boxcars
PLACE ACCEPTED:	Mobile, Alabama
NUMBER OF UNITS:	20
MARKED AND NUMBERED:	HCRC 1036 through 1046, 1051, 1052, 1054 through 1058, 1060 and 1061.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Builder for any warranties it has made with respect to the Equipment.

Dated:_____

UPPER MERION AND PLYMOUTH
RAILROAD COMPANY

By_____
Vice President

SCHEDULE C

CASUALTY VALUE

Rental Payment Period	Percentage of Purchase Price
Closing Date - December 1, 1980	100%
December 2, 1980 - March 1, 1981	98.5%

Each similar three month period thereafter the Casualty Value shall be reduced 1.50% until 30% is reached at which time no further reduction will occur.