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June 20, 1980

11918

RECORDATION NO. Filed 1425

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INTERSTATE COMMERCE COMMISSION

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No.

Date JUN 20 1980

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ICC Washington, D. C.

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Ms. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Room 2215
Washington, D.C. 20423

Dear Ms. Mergenovich:

As special counsel for McDonnell Douglas Finance Corporation, I have been requested to ask that you file the enclosed Equipment Lease Agreement.

This Equipment Lease Agreement, dated as of June 17, 1980, by and between McDonnell Douglas Finance Corporation, a Delaware Corporation, as lessor, and Xtra Leasing Inc., a Delaware Corporation, as lessee, effectuates the leasing of covered hopper cars bearing road numbers XTRX 76483 through XTRX 76576, inclusive, and XTRX 75933 through XTRX 75953, inclusive. The cars subject to the terms of this lease agreement have been plainly marked in stencil on both sides with the words "Title To This Car Subject To Documents Recorded With The Interstate Commerce Commission." All of the 115 of the covered hopper cars encompassed by the terms of this lease agreement are new, 100-ton capacity, 4750 cubic feet covered hopper cars, 94 of which were manufactured by Portec Inc. (XTRX 76483 through XTRX 76576, inclusive) and 21 of which were manufactured by the Richmond Tank Car Co. (XTRX 75933 through XTRX 75953, inclusive).

I am delivering a total of Three (3) manually executed copies of the Equipment Lease Agreement, with attached Exhibit A and Lease Addendum No. 1. I would appreciate it if you would have Two (2) copies of each stamped as recorded and returned to me.

Handwritten signature: O. D. ...

RECEIVED
JUN 20 3 20 PM '80
I.C.C.
FEE OPERATION BR.

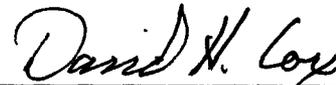
Ms. Agatha Mergenovich
June 20, 1980
Page 2

Thank you for your assistance and I look forward to hearing from you at your earliest convenience.

Very truly yours,

JACKSON, CAMPBELL & PARKINSON, P.C.

By:



David H. Cox

DHC/tlb

Enclosures:

3 copies of the Equipment
Lease Agreement with
Attached Exhibit A and
Lease Addendum No. 1

cc: Charles Johnson, Esquire

Interstate Commerce Commission
Washington, D.C. 20423

6/20/80

OFFICE OF THE SECRETARY

David H. Cox
Jackson, Campbell, Parkinson
One Lafayette Centre
1120 20th St., N.W. Suite 300 S.
Washington, D.C. 20036

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 **6/20/80** at **3:20pm**, and assigned recordation number(s). **11918**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

EQUIPMENT LEASE AGREEMENT

RECORDATION NO. **11918** Filed 1425

JUN 20 1980 - 3 22 PM

INTERSTATE COMMERCE COMMISSION

Equipment Lease

No. **330**

THIS LEASE, dated as of this 17th day of June, 1980, by and between McDonnell Douglas Finance Corporation, a Delaware corporation, (hereinafter called "Lessor") and Xtra Leasing Inc., a Delaware corporation (hereinafter called "Lessee"):

W I T N E S S E T H:

1. LEASE - Subject to the terms and conditions contained herein, Lessor hereby agrees to purchase pursuant to the Purchase Order Assignments (as hereinafter defined) and the Purchase Orders (as defined in the Purchase Order Assignments) and to lease to Lessee and Lessee hereby agrees to hire from Lessor the unit or units of equipment (hereinafter called "equipment") described in the Individual Equipment Record (hereinafter called "IER") to be attached hereto as Exhibit "A" and made a part hereof, or any subsequent IER which may hereafter be made a part hereof as the same are executed from time to time by the parties hereto.

2. TERM - The term of the lease for each unit of the equipment shall be as set forth on the IER applicable to such equipment and shall commence for each unit of equipment on the date shown on the applicable IER. The word "term" as used herein shall refer to any extensions of the original term.

3. RENT - Lessee shall pay Lessor rent for each unit of equipment as stipulated in the IER for such unit of equipment, without deduction or offset, in the amounts and at the times set forth in the IER. In the event Lessee shall be in default in the payment of any sum of money to be paid under this Lease Agreement, the Lessee shall pay Lessor, as additional rental, to the extent permitted by applicable law, interest on such unpaid sum from its due date (without regard to any grace period) to date of payment at the rate of 16% per annum or such lesser amount as may represent the maximum permitted by applicable law. Rent shall be payable in lawful currency of the United States of America at the office of Lessor at 3855 Lakewood Blvd, Long Beach, California 90846, Attention: Controller (18A-36) or its assigns (or at such other place as Lessor may from time to time designate in writing). Nothing in this Section shall be considered to deny to Lessee any available right or remedy at law or equity for any breach of a covenant hereunder by Lessor.

4. TAXES AGAINST LESSOR OR EQUIPMENT - Lessee agrees to pay and to indemnify and hold Lessor harmless from, all license and registration fees and sales, use, personal property, stamp or other taxes, levies, imposts, duties, charges or withholdings of any nature whatsoever together with any penalties, fines or interest thereon (collectively, "taxes, fees or other charges") imposed against Lessor, Lessee or the equipment or any part thereof by any Federal, state or local government or taxing authority, or by any foreign government or any taxing

authority or governmental subdivision of a foreign country, during the term or in connection with the termination of this Lease, upon or with respect to the equipment or any part thereof or upon the purchase, ownership, delivery, leasing, possession, use operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon or with respect to this Lease (excluding, however, (i) any taxes imposed by the Federal government on, based on, or measured by, the net income of the Lessor and (ii) any income or franchise taxes imposed by any taxing authority other than the Federal government on, based on, or measured by, the net income of the Lessor which in the aggregate do not exceed the amount of any such taxes which would be payable to the taxing authorities of the States of California, Arizona and Missouri if there was no allocation or apportionment to any other taxing authority), unless, and to the extent only that, any such tax, levy, impost, duty, charge or withholding is being contested by Lessee in good faith and by appropriate proceedings. In case any report or return is required to be made with respect to any obligation of Lessee under this Section or arising out of this Section, Lessee will either make such report or return in such manner as will show the ownership of the equipment in Lessor and send a copy of such report or return to Lessor or will notify Lessor of such requirement and make such report or return in such manner as shall be reasonably satisfactory to Lessor. Anything contained in this Section to the contrary notwithstanding, if Lessor shall assign or convey its right,

title and interest in and to this Lease and/or equipment, Lessee shall not be obligated to pay any taxes, levies, imposts, duties, charges or withholdings of any nature imposed against Lessor, Lessee or the equipment which would not have been imposed had such assignment or conveyance not occurred. If claim is made against Lessor for any such taxes referred to in this Section, Lessor shall promptly notify Lessee. If reasonably requested by Lessee in writing, Lessor shall, at Lessee's expense, take such action as Lessee may reasonably request with respect to such asserted liability, and if reasonably so requested by Lessee, any payment by Lessor of such tax shall be made under protest, if protest is necessary and proper. If payment is made, Lessor shall, at Lessee's expense, take such action as Lessee may reasonably request to recover such payment and shall, if requested, permit Lessee in Lessor's name to file a claim or prosecute an action to recover such payment. All of the obligations of Lessee under this Section with respect to any taxes, fees, or other charges (together with any penalties, fines or interest thereon) imposed or accrued before the expiration or other termination of this Lease shall continue in full force and effect notwithstanding such expiration or other termination and are expressly made for the benefit of, and shall be enforceable by, Lessor.

Lessor and Lessee covenant and agree that Lessor shall have the sole right to utilize and to claim depreciation deductions on the equipment in the computation of Federal, state and local

tax returns and reports for any year during the term of this Lease and the Lessee shall not utilize or claim or attempt to utilize or claim said depreciation deductions for any tax purposes whatsoever.

5. LESSEE'S FAILURE TO PAY TAXES, INSURANCE, ETC. - Should Lessee fail to make any payment or do any act as herein provided (subject however to any rights Lessee may have to contest the making of such payment or doing such act expressly provided for in this Lease), then Lessor shall have the right, but not the obligation, without notice to or demand upon Lessee, and without releasing Lessee from any obligation hereunder, to make or do the same, and to pay, purchase, contest or compromise any encumbrance, charge or lien which in Lessor's judgment appears to affect the equipment, and in exercising any such rights, incur any liability and expend whatever reasonable amounts in its absolute discretion it may deem necessary therefor. All sums so incurred or expended by Lessor shall be upon written notice immediately due and payable by Lessee and shall bear interest at the maximum rate permitted by applicable law.

6. USE - Lessee shall use, operate, maintain and store the equipment in a careful and proper manner and shall in all material respects comply with all laws, ordinances and regulations in any way relating to the possession, use, operation or maintenance of the equipment. Lessee warrants and agrees that the equipment will at all times be used and operated under and in compliance in all material respects with

the laws of the jurisdictions in which the equipment may be located and operated, the Interchange Rules of the Association of American Railroads, if applicable, and materially in compliance with all applicable, laws, ordinances, rules, regulations, requirements and orders of any judicial, legislative or regulatory body having power to regulate or supervise the use of the equipment including, but not limited to, the rules and regulations of the United States Department of Transportation and the Interstate Commerce Commission and the current Interchange Rules, or supplements thereto, of the Mechanical Division, Association of American Railroads. Lessee shall not dedicate the units of equipment to exclusive unit train usage. Annually, on December 31 of each year, Lessee shall determine the total number of miles that each unit of equipment traveled during (i) the preceding calendar year (hereafter the "Full Calendar Period") or (ii) in the case of calendar years in which the commencement of the term of this lease with respect to a unit of equipment is subsequent to January 1, as set forth in the IER related to such unit of equipment, or the expiration or other termination date of the term of this lease with respect to such unit of equipment is prior to December 31, that portion of said calendar year during which each such unit of equipment is leased pursuant to this lease (hereafter the "Partial Calendar Period"). For each unit of equipment traveling greater than 35,000 miles during each Full Calendar Period Lessee shall pay to Lessor, with respect to such unit of equipment, an amount equal to:

for years 1 through 5 of the term - 2¢

for years 6 through 10 of the term - 3.5¢

for years 11 through 15 of the term - 5.2¢

multiplied by the number of miles such unit of equipment travels in excess of 35,000 miles during said Full Calendar Period. For a Partial Calendar Period such amount shall be calculated on a pro rata basis. Such amounts shall be due and payable by Lessee to Lessor within 120 days after December 31 of each year. Lessee will not permit the assignment of any equipment to service involving the regular operation and maintenance thereof outside of the United States of America, provided that, Lessee may permit the assignment or sublease to the extent permitted pursuant to Section 18 hereof of any equipment to service in the Dominion of Canada and the Republic of Mexico so long as such assignment or sublease outside the United States will not in any way result in the loss to Lessor of (i) any portion of the full 10% investment tax credit allowed by Section 38 of the Internal Revenue Code of 1954 as amended to the date hereof for "new Section 38 property" with respect to the purchase price paid by Lessor for any unit of equipment or (ii) the benefit of any portion of depreciation deductions with respect to the purchase price paid by Lessor for any unit of equipment. The equipment shall at all times during the term of this lease be in a suitable condition for the hauling of grain and all other commodities that unlined covered hopper railcars are designed, intended and customarily used to transport. Lessee shall not permit any liens, charges

or encumbrances to be placed on or levied against the equipment other than (i) liens, charges or encumbrances placed thereon by Lessor or by persons claiming against Lessor but not Lessee, (ii) the respective rights of Lessor and Lessee as herein provided, and of sublessees permitted under Section 18 hereof and (iii) materialmen's, mechanic's, workmen's, repairmen's, employees' or other like liens arising in the ordinary course of business for amounts the payment of which is either not yet delinquent or is being contested in good faith (and for the payment of which adequate reserves have been provided) by appropriate proceedings so long as such proceedings do not involve any danger of the sale, forfeiture or loss of the equipment or interest therein. Lessee agrees to procure and maintain in effect all licenses, certificates, permits and other approvals and consents required by federal, state, county, municipal or foreign laws and regulations in connection with the possession, use, operation and maintenance of the equipment. Except as otherwise provided herein and in Section 18 hereof Lessee shall not transfer possession of the equipment in any manner whatsoever without Lessor's prior written consent. Upon written demand by Lessor, Lessee shall use its best efforts to give Lessor written notice of the location of the equipment. Notwithstanding the aforesaid, Lessee shall not be deemed to be in violation of this Section for noncompliance with any requirements of law, ordinance or regulation provided Lessee is in good faith contesting the validity or application of any such law, ordinance or regulation by appropriate

proceedings and provided Lessor's interests in the equipment and this lease are not in any way materially adversely affected.

7. IDENTIFICATION MARKS - Lessee, at Lessee's expense, shall cause each unit of equipment to be kept numbered with its road number as set forth in the IER with respect thereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each unit of equipment in letters not less than one inch in height as follows:

"Title to this car is subject to documents
recorded with the Interstate Commerce Commission"

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 unit of equipment, its rights under this lease and the rights of any assignee of Lessor hereof. The Lessee will not place any such unit 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 or cause to be replaced promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any unit of equipment except with the consent of the Lessor and in accordance with a statement of new road 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 lease shall have been filed, recorded or deposited.

Except as above provided, 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 Lessee or any sublessee permitted hereunder on railroad equipment used by them of the same or a similar type for convenience of identification. Lessee shall indemnify Lessor, and any assignee of Lessor hereof against any liability, loss or expense incurred by Lessor or any assignee of Lessor as a result of the aforesaid marking of the equipment with such name, initials or insignia.

8. ALTERATIONS - Lessee shall not make any alterations, additions or improvements to the equipment without the prior written consent of Lessor unless it is required pursuant to applicable law, regulation or rule or in order to comply with the maintenance provisions of Section 9 hereof. All such alterations, additions or improvements required as compliance with governmental laws and regulations shall become the property of Lessor, shall be free of all encumbrances, and for which Lessee shall provide a bill of sale to Lessor if required by Lessor. The Lessee shall make no other additions or improvements to the equipment unless the same are readily removable without causing material damage to such equipment. Title to such readily removable additions or improvements shall remain with the Lessee provided no Event of Default occurs. The equipment shall remain personal property regardless of whether it becomes affixed or attached to real property or

permanently rests upon any real property of any improvement thereon.

9. MAINTENANCE AND REPAIR - Lessee, at its sole cost and expense shall (i) keep or cause to be kept the equipment in good operating order, repair, condition and appearance and shall furnish or cause to be furnished any and all parts, mechanisms or devices required to keep the equipment in good mechanical and working order; (ii) maintain or cause to be maintained the equipment in a careful and proper manner and in compliance in all material respects with all applicable laws, ordinances, rules, requirements and regulations including, without limitation, the rules of the United States Department of Transportation and the Interstate Commerce Commission and the current Interchange Rules, or supplements thereto, of the Mechanical Division, Association of American Railroads and all manufacturer's instructions and warranty requirements; and (iii) pay or cause to be paid for all fuel, service, inspections, overhauls, replacements, substitutions, materials and labor necessary or desirable for the proper use, repair, operation and maintenance of the equipment.

10. DELIVERY INSPECTION; ACCEPTANCE - Prior to execution of the IER, Lessee shall have made all necessary inspections and tests of the equipment referred to therein at Lessee's sole expense, to determine whether the equipment conforms to the specifications selected by Lessee. If the equipment is found to be acceptable, by Lessee, Lessee shall accept delivery of such equipment and execute and deliver to Lessor an IER stating

that, such, equipment has been inspected and accepted by Lessee on the date of such IER and is marked in accordance with Section 7 hereof, whereupon such equipment shall be deemed to have been delivered and accepted by Lessee and shall be subject thereafter to all the terms and conditions of the lease. Lessee shall advise Lessor in writing at the time of execution of the IER, of any defect or objection to the type or condition of the equipment of which it is aware. Lessee's failure to advise Lessor of any defect or objection with respect to any item of equipment shall not establish the absence of any such defect in any equipment insofar as the manufacturer or supplier thereof is concerned. As between Lessor and Lessee, upon execution of the IER by Lessee, the equipment shall be deemed to conform to Lessee's specifications, shall be deemed to conform to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all applicable interchange requirements of the Associations of American Railroads and shall be deemed to be in good condition and without defects. Lessee shall indemnify, exonerate and save harmless Lessor from all claims, damages, actions, expenses (including reasonable attorneys' fees), and liabilities of any kind arising out of or connected with the failure or refusal of Lessee to accept, or the delay of Lessee in accepting the equipment except as a result of acts or omissions of Lessor.

11. INSPECTION; LESSEE REPORTS - Lessee shall, upon Lessor's written request, use its best efforts to obtain the right for

Lessor, at any time during normal business hours, to enter the premises where the equipment may be located for the purpose of inspecting and examining the equipment, its condition, use, and operation to ensure compliance by Lessee with its obligations under this Lease, notwithstanding the foregoing Lessor shall have no duty to inspect or examine and shall not incur any liability or obligation by reason of not making any such inspection or examination.

To the extent Lessee becomes aware of such, Lessee shall immediately notify Lessor of any accident involving damages or claims in excess of \$15,000.00 connected with the use, operation or malfunction of the equipment, including in such report the time, place and nature of the accident, the damage caused to property, the names and addresses of persons injured and of witnesses, and such other information as may be pertinent to Lessor's investigation of such accident. To the extent Lessee becomes aware of such, Lessee shall notify Lessor in writing ten (10) days after any attachment, tax lien or other judicial process shall attach to any item of equipment.

Lessee shall cause Xtra Corporation (the "Parent"), as soon as practicable after the close of each quarter and fiscal year of the Parent, to furnish to Lessor copies of the Parent's financial reports prepared by it as of the close of the period ended, including the Parent's balance sheet and profit and loss statement, with said fiscal year reports certified to by a recognized firm of certified public accountants. Lessee also agrees to furnish or cause to be furnished Lessor during the

term, promptly upon their availability, copies of all financial statements, reports, notices and of all regular and periodic reports filed by the Parent with principal securities exchange on which the common stock of the Parent is listed, if any, or with the Securities and Exchange Commission, including 10K and 10Q reports. Further, Lessee agrees to furnish Lessor from time to time such other information related to the equipment, this lease transaction or the financial condition of the Parent or Lessee as Lessor may reasonably request.

12. WARRANTIES - LESSOR IS NOT A MANUFACTURER OF THE EQUIPMENT OR A DEALER IN SIMILAR EQUIPMENT AND HAS NOT INSPECTED THE EQUIPMENT PRIOR TO DELIVERY TO AND ACCEPTANCE BY LESSEE. LESSOR BY VIRTUE OF HAVING LEASED THE EQUIPMENT UNDER THIS LEASE OR BY VIRTUE OF ANY NEGOTIATIONS IN RESPECT TO THIS LEASE HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO TITLE, DESIGN, COMPLIANCE WITH SPECIFICATIONS, CONDITION, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR USE OR OR FITNESS FOR A PARTICULAR PURPOSE OR AS TO ANY OTHER WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT.

Lessee hereby waives any claim it might have against Lessor for any loss, damage or expense caused by the equipment or by any defect therein, use or maintenance thereof or servicing or adjustment thereto except if caused by Lessor's negligence. During the period of any lease hereunder in which Lessee is not in default of its obligations, Lessor hereby assigns to Lessee to the extent assignable, any manufacturer or dealer warranty,

whether express or implied, on the equipment covered by any lease hereunder. All claims or actions on any warranty which can be so assigned shall be made or prosecuted by Lessee, at its sole expense and Lessor shall have no obligation whatsoever to make any claim on such warranty. If any such manufacturer's or dealer's warranties are not capable of being assigned, then Lessor agrees to assert any claim, as promptly as reasonably possible and on behalf of Lessee, which is valid without such warranty and to which Lessee has given Lessor prior written notice thereof; which notice shall include all information which Lessor deems necessary to proceed. Lessee agrees to indemnify, hold harmless and reimburse Lessor for any and all claims, liabilities asserted against and expenses incurred by Lessor in connection with the valuation and/or assertion of any such claim. Lessor further authorizes Lessee to obtain whatever service to the equipment the manufacturer customarily renders, provided that no such service be at the expense of the Lessor. Lessor represents and warrants: (i) that Lessor has the right to lease the equipment in accordance with the terms hereof; (ii) that Lessor, so long as an Event of Default shall not have occurred under this lease, will not interfere with Lessee's right to have the quiet enjoyment and peaceful possession of the equipment during the term of this lease, and (iii) the equipment is free and clear of liens or encumbrances placed thereon by Lessor.

13. INSURANCE - Simultaneously upon passage of risk of loss from the vendor Lessee at its own expense shall maintain public

liability and property damage liability insurance with respect to the equipment in an amount of not less than \$5,000,000.00, single limit coverage, insuring against liability for death, bodily injury and property damage resulting from ownership, maintenance, use or operation of the equipment. Said insurance shall not require any contribution from any excess insurance applicable to the equipment carried by Lessor. Except as otherwise provided in any IER, all such insurance shall be in amounts and with companies of nationally recognized standing. Said policies shall provide that they may not be altered or canceled by the insurer without thirty (30) days prior written notice to Lessor. All such insurance (i) shall name Lessor as an additional named insured and (ii) shall not be invalidated by any change in the title or ownership of the equipment. Lessee's obligation to keep the equipment insured as provided herein shall continue until said equipment is returned to Lessor in accordance with the provisions hereof.

Lessee shall furnish Lessor with all insurance policies or certificates, endorsements or renewals applicable to the equipment as soon as they become available to Lessee.

14. RISK, EVENT OF LOSS, CONDEMNATION - (a) RISK: Commencing at the time such risks pass to Lessor from the vendor of the equipment and continuing until the termination of this lease and the return by Lessee of the equipment to Lessor in accordance with the provisions hereof, Lessee assumes the entire risk of any Event of Loss as defined below or any liability of Lessor from any cause whatsoever except arising

from Lessor's negligence and no such Event of Loss or liability shall relieve Lessee of its obligations hereunder.

(b) DEFINITION - EVENT OF LOSS: For purpose of this Section, an Event of Loss with respect to any unit of equipment shall mean any of the following events with respect to such equipment: (i) the actual or constructive total loss of such equipment; (ii) such equipment shall become lost, stolen, destroyed, damaged beyond economic repair as determined by Lessee or permanently rendered unfit for intended use for any reason whatsoever; or (iii) the condemnation, confiscation or seizure of, or requisition of title to or use of such equipment.

(c) DEPRIVATION CONSTITUTING AN EVENT OF LOSS: Upon the occurrence of an Event of Loss, Lessee shall pay or cause to be paid upon written demand within thirty (30) days of such Event of Loss in lawful currency of the United States of America: (i) The Stipulated Loss Value computed as of the date of such Event of Loss, (ii) interest on the unpaid balance of said amount at the rate of 16% per annum or such lesser rate as may be permitted by applicable law from the date of such Event of Loss to the date of receipt, and (iii) all other unpaid amounts due hereunder. At such time as Lessor has received the sum of (i), (ii), and (iii) above, the obligation of Lessee to pay rent hereunder with respect to such unit of equipment shall terminate and Lessor will transfer to Lessee, without recourse or warranty, all of Lessor's right, title and interest, if any in and to the equipment with respect to which such Event of Loss occurred. For purposes of this lease the term "Stipulated Loss Value" for a unit of equipment as of any date of

computation shall be that percentage of equipment cost for such unit of equipment set forth in the IER opposite the regular rental payment last received by Lessor for such unit of equipment.

(d) DEPRIVATION NOT CONSTITUTING AN EVENT OF LOSS: In the event of damage of any unit of equipment not constituting an Event of Loss, Lessee shall promptly notify Lessor in writing of any such damage greater than \$15,000, and shall remain obligated to make all payments of rent for the equipment which may become due hereunder in the same manner as if such damage had not occurred. Lessee shall repair and restore or cause to be repaired and restored such equipment to the condition it was in immediately prior to the occurrence which gave rise to such payment. So long as no Event of Default shall have occurred and be continuing, all payments from insurance proceeds or otherwise with respect to any such damage shall be paid over to Lessee upon receipt of satisfactory evidence by Lessor that Lessee has repaired or contracted to repair such equipment. Should an Event of Default have occurred and be continuing, all such payments shall be paid over to and retained by Lessor.

(e) APPLICATION OF PAYMENTS: Upon the occurrence of any Event of Loss, Lessor shall be entitled to and shall receive the entire award, judgment, settlement, or payments and all installments thereof (other than proceeds of all risk physical loss insurance carried by Lessee) to the extent of Lessee's obligations under 14(c) hereof, Lessee hereby assigns to Lessor

any right or interest Lessee may have or may hereafter acquire in any such award or payment to the extent of such obligations.

15. INDEMNITY - Lessee agrees to defend at its own cost and to indemnify and hold harmless Lessor, its agents and employees, from and against any and all loss, claims, patent infringements, costs, expenses, damage and liabilities (including reasonable attorneys' fees), however caused, resulting directly or indirectly in any manner from the issuance of Lessor's purchase order, if any, assignment of Lessee's purchase order, if any, ownership, purchase, delivery, lease, possession, return, disposition or directly or indirectly from or pertaining to the use, condition (including without limitation latent or other defects whether or not discoverable) or operation of the equipment or the performance of this lease (including without limitation such loss, claims, costs, expenses, damages and liabilities arising from the death or injury to agents or employees of Lessee or Lessor or any third person, or damage to the property of Lessee or Lessor, their agents or employees, or any third person, firm or corporation) except for such damages, losses, expenses or liabilities arising out of the negligence or willfull misconduct of Lessor, its agent or employees. This indemnification shall survive the expiration or other termination of this lease for the benefit of and enforceable by the Lessor.

16. RETURN OF EQUIPMENT - Upon the expiration or earlier termination of any lease hereunder, Lessee, at its expense, shall deliver each unit of equipment to Lessor or its designee,

or to a subsequent lessee at such storage or terminal facility at Chicago, Illinois or at such other location within 200 miles of Chicago, Illinois as Lessor may designate by written notice to Lessee. Upon delivery to such facility such equipment shall be deemed returned to Lessor. At the time of delivery, each item of equipment shall be empty, free from residue, in the same good order and condition as when delivered to Lessee hereunder, normal wear and tear excepted, and in the condition and repair required according to the Interchange Rules of the Association of American Railroads. Lessee shall, on demand, reimburse Lessor for the expense of cleaning any item of equipment that contains residue and for such other costs which may be incurred to place such item of equipment in the condition described above. If requested by Lessor, Lessee shall use its best efforts to, but shall have no obligation, to provide Lessor with free storage of the equipment, upon suitable storage tracks, for up to 180 days. During any storage period, Lessee will permit or arrange permission for Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such unit of equipment to inspect the same.

If any unit of equipment is not redelivered to Lessor or not delivered to a subsequent lessee on or before the date on which the term ends, or in the event that a unit of equipment so delivered is not in the condition required by this Section 16, Lessee shall pay rental for each day that such unit of equipment is not delivered as required herein or until such

unit of equipment is delivered in the condition required, at the rental rate required under this lease prorated on a daily basis. Lessee shall pay Lessor on or before the last day of each month the amount Lessee is obligated to pay to Lessor for such month under this Section. In addition to any other indemnity provided herein and any payments to be made to Lessor hereunder, Lessee shall also indemnify and hold Lessor harmless from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, including those asserted by a subsequent lessee, arising out of or as a result of such late delivery or failure to deliver in the condition required except arising out of Lessor's negligence.

17. DEFAULTS, REMEDIES, DAMAGES

(a) DEFAULTS: The following events shall constitute Events of Default:

(1) Lessee shall fail to make any payment to Lessor when due under this lease and such failure to pay shall continue for a period of ten (10) or more days after written notice thereof by Lessor to Lessee; or

(2) There shall occur any termination of any insurance coverage maintained by Lessee pursuant to this lease; or

(3) Lessee shall fail to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure shall continue unremedied for a period of forty-five (45) days after written notice thereof by Lessor to Lessee; or

(4) Any representation or warranty made by Lessee herein or in any document or certificate furnished Lessor in connection herewith shall prove to be incorrect at any time in any material respect; or

(5) Lessee or its Parent shall become insolvent or bankrupt or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver; or a trustee or a receiver shall be appointed for Lessee or its Parent for a substantial part of its property without its consent and shall not be dismissed within a period of sixty (60) days; or bankruptcy, reorganization, or insolvency proceedings shall be instituted by or against Lessee or its Parent, and shall not be dismissed within a period of sixty (60) days; or

(6) The Parent's Guarantee dated as of June 23, 1980 (the "Guarantee") to Lessor of Lessee's obligations under this lease shall be invalid or unenforceable for any reason whatsoever or any representation or warranty made by the Parent therein or in any document or certificate furnished Lessor in connection therewith shall prove to be incorrect at any time in any material respect.

(b) REMEDIES: Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor, at its option, may do one or more of the following with respect to any or all equipment.

(1) Proceed by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of

the applicable covenants of this lease and to recover damages for the breach thereof;

(2) Repossess with or without notice and sue for the rentals due hereunder as they accrue without notice and at Lessee's costs and expenses;

(3) Repossess and without terminating the lease hold the equipment until the Lessee shall have complied with all obligations under the lease;

(4) Repossess with or without notice and sell, relet, use, hold or otherwise dispose of the equipment;

(5) Without repossessing, declare all unpaid rentals immediately due and payable;

(6) Repossess and terminate the lease.

(c) DAMAGES: Lessor and Lessee agree that the measure of damages is impossible to determine in the absence of prior agreement. Therefore, the parties agree that as damages for the loss of a bargain and not as a penalty in the case or sale of reletting after repossession Lessor shall be entitled to:

(i) SALE: Where a sale has occurred, the deficiency between the Net Proceeds of Sale and the Stipulated Loss Value at the time of sale. Where a sale has not yet occurred, the excess of the Stipulated Loss Value at the time of determination over the Fair Market Sales Value.

(ii) RELETTING: Where a reletting has occurred, the deficiency between (x) the aggregate rentals due under the reletting discounted at 9% per annum and (y) the greater of (a) the Stipulated Loss Value at reletting, or (b) the aggregate

unpaid lease rentals discounted at 9% per annum. Where a reletting has not yet occurred, the deficiency between (x) the Aggregate Fair Market Rental Value discounted at 9% per annum and (y) the greater of (a) the Stipulated Loss Value at time of determination, or (b) aggregate unpaid lease rentals discounted at 9% per annum.

(iii) In addition to that set out in (i) and (ii), Lessor shall be entitled to: (a) the unpaid rent from default until sale, reletting, or determination of damages, and (b) interest on all amounts due including rent and damages from date due until payment at the maximum rate permitted by applicable law.

For purposes of this Section the following definitions apply:

(1) DISCOUNTED: Reduction to present value as of the date of sale, reletting or determination of damages, whichever is applicable, at the stated interest rate and at a frequency equal to the frequency of rental payments under this lease.

(2) AGGREGATE FAIR MARKET RENTAL OR AGGREGATE FAIR MARKET SALES VALUE: A value determined by a recognized independent appraiser selected by Lessor.

(3) NET PROCEEDS OF SALE: The gross consideration received by Lessor less all expenses associated directly or indirectly with sale including but not limited to refurbishing, repair, advertising, freights, financing costs.

(4) PRIME: Best rate then charged by The Chase

Manhattan Bank of New York for 90-day loans to substantial commercial borrowers.

(d) Each and every power and remedy herein specifically given to Lessor shall be in addition to every other power and remedy specifically so given or now or hereafter existing at law or in equity, and each and every power or remedy may be exercised from time to time or simultaneously and as often and in such order as may be deemed expedient by Lessor. All such powers and remedies shall be cumulative and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Lessor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. In the event that Lessor shall bring any suit or action to enforce any of its rights hereunder, then in such suit or action Lessor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment. Lessee hereby appoints Lessor, Lessee's irrevocable agent and attorney-in-fact to execute all documents deemed necessary to release, terminate and void Lessee's interest in any equipment leased hereunder and to file said documents for recordation with appropriate agencies provided that an Event of Default has occurred and Lessor in its discretion deems use of this agency necessary to effect any remedy Lessor chooses to take any such power or remedy and no renewal or extension of any payments due

hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. In the event that Lessor shall bring any suit or action to enforce any of its rights hereunder, then in such suit or action Lessor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment. Lessee hereby appoints Lessor, Lessee's irrevocable agent and attorney-in-fact to execute all documents deemed necessary to release, terminate and void Lessee's interest in any equipment leased hereunder and to file said documents for recordation with appropriate agencies provided that an Event of Default has occurred and Lessor in its discretion deems use of this agency necessary to effect any remedy Lessor chooses to take.

18. ASSIGNMENT BY LESSEE Except as otherwise provided herein, Lessee shall not transfer, assign, pledge or hypothecate this lease, the equipment or any part thereof or any interest therein, without the prior written consent of Lessor which shall not be unreasonably withheld. So long as no Event of Default or an event which with notice or lapse of time would constitute an Event of Default has occurred and is continuing, Lessee shall be entitled to the possession of the equipment and shall also be entitled (i) to the use of the equipment by it upon lines of railroads owned or operated by it or upon lines of railroad over which Lessee has trackage or other operating rights or over which railroad equipment of Lessee is regularly operated pursuant to contract, (ii) to

permit the use of the equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, (iii) to sublease the units of equipment pursuant to subleases entered into prior to, or at any time within six (6) months of the date hereof (said subleases hereinafter referred to as "Original Subleases") provided that with respect to each such Original Sublease, Lessee shall execute and deliver to Lessor an assignment of Lessee's rights in the form of Exhibit "B" hereto (an "Assignment"), and (iv) any time subsequent to the Original Subleases to sublease the units of equipment to entities organized under the laws of any state of the United States, the District of Columbia, the Dominion of Canada or the Republic of Mexico for use in connection with their operations or to extend the Original Subleases; provided, (A) any such subleases, or extensions to the Original Subleases for two (2) years or more, shall be subject and subordinate to this lease and the rights of Lessor hereunder, (except upon Lessor's consent such extensions may be without such subordination) (B) with respect to each sublease of the equipment for a term of three years or greater entered into by Lessee subsequent to the date hereof Lessee shall execute and deliver to Lessor an Assignment and (C) if required by Lessor, an indemnification in form satisfactory to Lessor for the loss of foreign tax credits in connection with subleases to entities organized under the laws of the Dominion of Canada or the Republic of Mexico.

Lessee may receive and retain compensation for such use from entities so using any item of equipment except as provided in

the Assignments referred to in clause (iii) above. Consent to any of the foregoing acts shall not be deemed to be consent to any subsequent similar act. Nothing in this Section 18 shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interests under this lease in the equipment or possession of the equipment to any corporation into which the Lessee shall have become merged or consolidated provided that such assignee, successors or transferees shall have duly assumed the obligations of the Lessee hereunder and that they will not, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, be in default under any provisions of this lease and such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

19. ASSIGNMENT BY LESSOR - Lessor may assign, pledge or in any other way transfer this lease either in whole or in part, or any interest therein without notice to Lessee and Lessee shall execute such consents thereto as may reasonably be required by Lessor; provided, however, that Lessor agrees that, so long as no Event of Default or event which with notice or lapse of time would constitute such an Event of Default shall have occurred and be continuing Lessor will not assign, pledge or transfer this lease or any interest therein to any corporation which is a rail car leasing company competing with Lessee. The foregoing provision shall not apply to the merger with or

acquisition by Lessor of such a competing rail car leasing company. Any such assignee or transferee pursuant to this Section shall, by its acceptance of such assignment, agree that such assignee or transferee so long as an Event of Default shall not have occurred under this lease, will not interfere with Lessee's right to have the quiet enjoyment and peaceful possession of the equipment during the term of this lease.

20. OWNERSHIP BY LESSOR - The equipment is and shall at all times remain the sole and exclusive property of Lessor. The only interest Lessee shall have in the equipment is that of a Lessee hereunder.

21. SUSPENSION OF OBLIGATIONS OF LESSOR - The obligations of Lessor hereunder shall be suspended to the extent that it is hindered or prevented from complying therewith because of labor disturbances, including strikes and lockouts, acts of God, fires, storms, accidents, governmental regulations or interference or any cause whatsoever beyond the control of Lessor.

22. PROHIBITION AGAINST SETOFF, COUNTERCLAIM, ETC. - Lessee's obligation to pay all amounts due hereunder shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation (i) any setoff, counterclaim, defense, or other right which Lessee may have against Lessor, (ii) any defect in the title, condition, design, operation or fitness for use of, or any damage to or loss or destruction of, the equipment, or any interruption or cessation in the use of possession thereof by Lessee for any reason

whatsoever, or (iii) any insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee.

Lessee hereby waives, to the extent permitted by applicable law, 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 this lease.

Each rent payment made by Lessee shall be final and Lessee will not seek to recover all or any part of such payment from Lessor for any reason whatsoever.

23. REPRESENTATION, WARRANTIES AND COVENANTS OF LESSEE -

Lessee represents, warrants and covenants: (i) at the time Lessor becomes owner of the equipment, the equipment will be new and unused and not have been placed in service by Lessee; (ii) that it is a duly organized validly existing corporation with necessary power and authorities to perform this lease, the Purchase Order Assignments each dated as of the date hereof between Lessor and Lessee (the "Purchase Order Assignments") (to the extent applicable to Lessee) and each Assignment executed and delivered to Lessor as of the execution and delivery of this lease; (iii) that this lease, the Purchase Order Assignment and each Assignment have been duly authorized, executed and delivered by all necessary corporate action on the part of Lessee and will not contravene or breach any law, rule or regulation binding upon Lessee; (iv) that this lease, the Purchase Order Assignments (to the extent applicable to Lessee) and each Assignment, constitute binding obligations enforceable in accordance with their respective terms; (v) that there are

no suits or proceedings pending or (to the best of Lessee's and the Parent's knowledge) threatened which may have a material adverse effect on Lessee's or the Parent's financial condition or business; (vi) that no mortgage, deed of trust, or other security interest of any type, has attached to the equipment other than the liens permitted under Section 6 hereof); (vii) this lease does not require the consent, approval or withholding of objection by any person, party or governmental agency; and (viii) that no filing, recording or depositing or, any notice of this lease is necessary to protect the rights of Lessor under this lease in the United States of America, Mexico or Canada other than recordation of this lease with the Interstate Commerce Commission pursuant to Section 11303 of the Revised Interstate Commerce Act.

24. ATTORNEYS' FEES - In the event of any action at law or suit in equity in relation to this lease, the party that prevails in such action shall be reimbursed for all reasonable court costs and attorneys' fees incurred and paid by the other party.

25. NOTICES - All notices required under the terms and provisions hereof shall be in writing and addressed (i) to Lessee:

Xtra Leasing Inc.
60 State Street
Boston, Massachusetts 02139
Attention: Mr. E. B. Helmick

With a copy to Xtra Corporation at the same address

at such other address as Lessee shall from time to time designate in writing to Lessor, or (ii) if to Lessor: McDonnell Douglas Finance Corporation, Attention: President, at 3855 Lakewood Boulevard, Long Beach, California 90846, or at such other address as Lessor shall from time to time designate in writing to Lessee.

26. CONDITIONS PRECEDENT - As conditions precedent to Lessor's duties under this lease, Lessee shall furnish Lessor prior to the purchase by Lessor of the units of equipment and the lease by Lessor to Lessee of such units of equipment the following: (a) an opinion of William D. Evans, counsel for Lessee with respect to the matters set out in Section 23 (ii), (iii), (iv), (v), (vi) and (vii) hereof, (b) an opinion of William D. Evans, counsel for Xtra Inc. ("Xtra") assignor under the Purchase Order Assignments with respect to the matters set forth in Section 23 (ii) (iii) and (iv) to the extent related to Xtra and the Purchase Order Assignments, (c) certified copies of necessary resolutions and other documents authorizing this lease, the Purchase Order Assignments and the Assignments and Lessee's performance hereunder and thereunder (d) the Guarantee, as well as an opinion of counsel with respect to such Guarantee and certified copies of necessary resolutions and other documents authorizing the Guarantee and the Parent's

performance thereunder and (e) such other documents as Lessor may require.

27. APPLICABLE LAW, MODIFICATIONS - This lease shall be governed by and construed according to the laws of the State of California. The terms hereof shall not be waived, varied, contradicted, explained, amended or changes in any other manner except by an instrument in writing of even or subsequent date hereto, executed by both parties.

28. RECORDING, REGISTRATION AND FILING - The filing, registration and recordation of this lease and each assignment referred to in Section 22 in conformity with Section 11303 of the Revised Interstate Commerce Act, in accordance with Section 86(2) of the Railway Act and in other such places within or without the United States, Canada or Mexico whether required by law or as Lessor may reasonably request together with an opinion or opinions of counsel with respect thereto shall be at the sole expense of Lessee and Lessee will pay or upon demand, reimburse Lessor, for all reasonable out-of-pocket costs and expenses incurred by Lessor in connection with each filing, registration or recordation and in connection with such opinion of counsel. Lessee will as requested by Lessor, at Lessee's cost and expense, do and perform any other act and will execute, acknowledge, deliver, file and register, record and deposit and will re-file this lease as required by law in the United States, Canada or Mexico or requested by Lessor (or any assignee of Lessor) including without limitation, financing statements under the Uniform Commercial Code (which,

notwithstanding the intent of Lessor and Lessee that this is a true lease, Lessor shall have the right to file wherever and whenever Lessor requires), for the purpose of proper protection to the satisfaction of Lessor, (and/or of Lessor's assignee) of Lessor's title to any equipment (and/or of Lessor's assignee's, if any, in any of the equipment) or for the purpose of carrying out the intention of this lease and the Assignments and in connection with any such action delivery to Lessor proof of such filings and an opinion of counsel that such action has been properly taken.

29. PURCHASE OPTION - Lessee is hereby granted an option to purchase, AS-IS-WHERE-IS, all, but not less than all of the equipment, at the expiration of the term of each of the IERs, for the equipment described in such IER at the equipment's then Fair Market Value (as hereinafter defined).

The exercise of said option is conditioned upon: (a) performance of all of the terms and conditions of this lease at the time and in the manner required herein and no Event of Default (or event which with due notice and/or lapse of time would constitute an Event of Default) shall have occurred and be continuing under the lease (b) Lessor's receipt of written notice of the election to exercise said option at least 180 days prior to the date upon which the original term of the first IER expires; and (c) payment to Lessor of said Fair Market Value price, as set forth below together with all taxes on or measured by such purchase price.

The Fair Market Value shall be an amount mutually agreed upon by Lessor and Lessee. Lessee's estimate of Fair Market Value of the equipment covered by the first expiring IER shall accompany the 180 days' notice described above; and 180 days prior to the expiration of each subsequently expiring IER Lessee shall send its reasonable estimate of the Fair Market Value of the equipment covered by each IER. If Lessor and Lessee are unable to agree upon the amount of the Fair Market Value of the equipment within 60 days after Lessor's receipt of the estimate thereof, then the Fair Market Value shall be determined in an appraisal mutually agreed to by two recognized independent appraisers, one of which appraisers shall be chosen by Lessor and one by Lessee. If the Fair Market Value is not so determined within 90 days after Lessor's receipt of Lessee's notice of election to exercise the purchase options, the Fair Market Value shall be determined by an independent recognized appraiser selected by the two appraisers selected by Lessor and Lessee. The Fair Market Value as finally determined shall bear interest for a period, if any, from the date of expiration of the IER to the date of payment, at the rate of 16% per annum or such lesser amount as may be permitted by applicable law and Lessee shall pay the cost of any appraisal (except for the costs of the appraiser appointed by Lessor) should appraisal be necessary.

By Lessee's purchase of the equipment covered by the first IER, Lessee agrees that it shall thereafter purchase, upon the terms and conditions set forth herein, the remainder of the equipment.

Unless Lessee has purchased the equipment as set forth above, all the equipment then leased shall be returned pursuant to Section 16 hereof.

30. RENEWAL OPTION - Upon not less than 180 days' prior written notice from Lessee to Lessor prior to the expiration of the term of this Lease, Lessee may (provided that no Event of Default or event which with passage of time or notice would constitute an event of Default shall have occurred and be continuing) elect to renew this lease for all but not less than all of the equipment at a rental equal to the Fair Market Rental Value for a term of two years commencing at the expiration of the term of this lease and for an additional term of two years commencing upon the expiration of such two year renewal term. The rent payable for each such renewal period shall be payable in installments on the same dates as regular rental installment were payable during the term of this lease. Lessor and Lessee shall execute and deliver such documents as may be necessary to confirm such renewal.

For the purposes of this Section, "Fair Market Rental Value" shall be an amount mutually agreed upon by Lessor and Lessee. Lessee's estimate of the Fair Market Rental Value of the equipment shall accompany the 180 days' notice set forth above. If Lessor and Lessee are unable to agree upon the amount of the Fair Market Rental Value of the equipment within 60 days after Lessor's receipt of the estimate thereof, then the Fair Market Rental Value shall be determined in an appraisal mutually agreed to by two recognized independent appraisers,

one of which appraisers shall be chosen by Lessor and one by Lessee. If the Fair Market Rental Value is not so determined within 90 days after Lessor's receipt of Lessee's notice of election to exercise its right to renew this lease, the Fair Market Rental Value shall be determined by an independent, recognized appraiser selected by the two appraisers selected by Lessor and Lessee. Lessee shall pay the cost of any appraisal (except for the costs of the appraiser appointed by Lessor) should appraisal be necessary.

31. RIGHT OF TERMINATION - Subject to compliance with all the conditions of this Section and so long as no Event of Default (or event which, with notice or passage of time, or both, would constitute an Event of Default) shall have occurred and be continuing, Lessee shall have the right, at any time after the fifth anniversary of the commencement of the term of this lease, to terminate this lease as to all, but not less than all, the equipment on no less than 180 days' prior written notice to Lessor specifying a proposed date of termination (which date shall be a date on which an installment of rent is due and payable), provided, however, that such right of termination shall be subject to Lessee having made a good faith determination that the equipment has become obsolete or surplus to Lessee's requirements.

During the period from the giving of notice of termination until the date of termination specified therein, Lessee shall use its best efforts to obtain bids for Lessor for the cash purchase of the equipment. In the event either party receives

any bid, such party shall immediately, but in no event less than fifteen business days prior to the proposed date of sale (which shall be the date of termination) certify to the other party in writing the amount of such bid, and the name and address of the person or entity (who shall not be Lessee or any person, firm or corporation related to, or affiliated with Lessee) submitting such bid. Lessee shall deliver the equipment in accordance with Section 16 hereof to the bidder, if any, which shall have submitted such highest bid no later than the date of termination, and Lessor shall, on an "AS IS - WHERE IS" basis and without recourse or warranty simultaneously therewith sell such equipment for cash to such bidder, provided Lessee pays to Lessor the amount, if any, required by the following paragraph:

The total selling price realized at such sale shall be retained by Lessor and, in addition, on the date of such sale, Lessee shall pay to Lessor, in immediately available funds, the difference between (A) the sum of accrued and unpaid rent to and including the date of termination, any other obligations owed by Lessee to Lessor, and the greater of the Fair Market Value of the equipment determined as of such date, as provided in Section 29 hereof, or the Stipulated Loss Value for the equipment computed as of such date, less (B) the sale price of the equipment received by Lessor after deducting therefrom the costs, expenses and taxes, if any, incurred in connection with such sale.

In the event this sale is not consummated for any reason, or no prospective purchaser is obtained by Lessee or Lessor, this lease shall be and continue in full force and effect.

32. TIME - Time is of the essence hereof.

IN WITNESS WHEREOF, the parties hereto have caused this lease to be executed by their duly authorized officers on the day and year first written above.

LESSOR:

MCDONNELL DOUGLAS FINANCE CORPORATION

By: [Signature]

Title: Authorization Agent

LESSEE:

XTRA LEASING INC.

By: [Signature]

Title: Pres.

ATTEST:

By: [Signature]

Title: Assistant Secretary

ATTEST:

By: [Signature]

Title: Sec.

SEAL

SEAL

STATE OF Massachusetts)
COUNTY OF Suffolk) SS

On this 17 th. day of June , 1980 , before me personally appeared Gary L. Christensen,

, to me personally known, who, being by me duly sworn, says that he is Authorized Agent

of McDonnell Douglas Finance Corporation, 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.

Marion F. Ewell

Notary Public

(Notarial Seal)

My Commission expires August 16, 1985

INDIVIDUAL EQUIPMENT RECORD

IER NO. _____

Dated as of _____ to that Equipment Lease Agreement dated as of _____

LESSOR: McDonnell Douglas Finance Corporation
 3855 Lakewood Boulevard
 Long Beach, California 90846
 Attention: 18A-34

LESSEE: XTRA LEASING INC.
 60 State Street
 Boston, Massachusetts 02139

LOCATION OF EQUIPMENT: As provided in Sections 6 and 18 of the above described Equipment Lease Agreement.

ACCEPTANCE DATE:

New <input checked="" type="checkbox"/> Used _____	Purchase Order No. _____	Term: <u>15</u> year(s) _____ month(s) Commencing _____	Security Deposit: \$ - 0 -
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Tax Capitalized or Exempt Tax Based on Rentals Remit with each Payment	<input type="checkbox"/> <input type="checkbox"/>	INSURANCE REQUIREMENTS: ALL RISK Stipulated less value LIABILITY: Bodily Injury Liability \$5,000,000 per person/\$5,000,000 per accident; Property Damage Liability \$5,000,000
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RENTAL: \$ _____ payable upon execution of this IER, to be applied to the _____ rental installment. Payment of the _____ through _____ rental installments shall commence on _____ and shall continue _____ thereafter on the _____ day of each _____, with each such rental installment to be in the amount of \$ _____

EQUIPMENT DESCRIPTION AND SERIAL NO.(s) (SEE ATTACHED INVOICES):		
Equipment Description	Serial No.	Equipment Cost
94 Units - 100 Ton Capacity, 4750 Cu. Ft. Covered Hopper Cars manufactured by Portec Inc.	XTRX 76483 through XTRX 76576	
21 Units - 100 Ton Capacity, 4750 Cu. Ft. Covered Hopper Cars manufactured by Richmond Tank Car Co.	XTRX 75933 through XTRX 75953	

STIPULATED LOSS VALUES

PAYMENT NO.	STIPULATED LOSS AS A PERCENT OF ORIGINAL COST	PAYMENT NO.	STIPULATED LOSS AS A PERCENT OF ORIGINAL COST	PAYMENT NO.	STIPULATED LOSS AS A PERCENT OF ORIGINAL COST
PRIOR TO PAYMENT		44	100.0	89	79.8
1	102.5	45	99.9	90	79.5
AFTER 1	102.5	46	99.9	91	79.2
2	102.7	47	99.8	92	78.9
3	103.0	48	99.7	93	78.5
4	103.3	49	99.6	94	78.2
5	103.5	50	99.6	95	77.9
6	103.8	51	99.5	96	77.6
7	104.0	52	99.4	97	77.2
8	104.2	53	99.3	98	76.9
9	104.4	54	99.2	99	76.5
10	104.5	55	99.1	100	76.2
11	104.7	56	99.0	101	75.8
12	104.9	57	98.8	102	75.5
13	104.1	58	98.7	103	75.1
14	104.2	59	98.6	104	74.7
15	104.3	60	98.5	105	74.3
16	104.3	61	92.1	106	73.9
17	104.4	62	92.0	107	73.6
18	104.5	63	91.8	108	73.2
19	104.6	64	91.7	109	72.8
20	104.7	65	91.5	110	72.4
21	104.7	66	91.4	111	72.0
22	104.8	67	91.2	112	71.6
23	104.9	68	91.0	113	71.2
24	104.9	69	90.8	114	70.8
25	105.0	70	90.6	115	70.3
26	105.0	71	90.4	116	69.9
27	105.0	72	90.2	117	69.5
28	105.1	73	90.0	118	69.1
29	105.1	74	89.8	119	68.6
30	105.1	75	89.6	120	68.2
31	105.1	76	89.4	121	67.8
32	105.2	77	89.1	122	67.3
33	105.2	78	88.9	123	66.9
34	105.2	79	88.7	124	66.5
35	105.2	80	88.4	125	66.0
36	105.2	81	88.2	126	65.6
37	100.1	82	87.9	127	65.1
38	100.1	83	87.6	128	64.6
39	100.1	84	87.4	129	64.2
40	100.1	85	80.9	130	63.7
41	100.1	86	80.6	131	63.2
42	100.0	87	80.4	132	62.8
43	100.0	88	80.1	133	62.3

STIPULATED LOSS VALUES

PAYMENT NO.	STIPULATED LOSS AS A PERCENT OF ORIGINAL COST	PAYMENT NO.	STIPULATED LOSS AS A PERCENT OF ORIGINAL COST	PAYMENT NO.	STIPULATED LOSS AS A PERCENT OF ORIGINAL COST
134	61.8	AFTER PAYMENT			
135	61.3	180			
136	60.8	AND THEREAFTER	35.0		
137	60.4				
138	59.9				
139	59.4				
140	58.9				
141	58.3				
142	57.8				
143	57.3				
144	56.8				
145	56.3				
146	55.7				
147	55.2				
148	54.7				
149	54.1				
150	53.6				
151	53.1				
152	52.5				
153	51.9				
154	51.4				
155	50.8				
156	50.2				
157	49.7				
158	49.1				
159	48.5				
160	47.9				
161	47.3				
162	46.7				
163	46.1				
164	45.5				
165	44.9				
166	44.3				
167	43.7				
168	43.1				
169	42.4				
170	41.8				
171	41.2				
172	40.5				
173	39.9				
174	39.2				
175	38.6				
176	37.9				
177	37.2				
178	36.6				
179	35.9				

SPECIAL CONDITIONS:

The undersigned Lessor hereby leases to the undersigned Lessee, and the undersigned Lessee agrees to hire from Lessor the equipment described herein. The Lessee hereby acknowledges and agrees, respecting the equipment described herein:

- (1) That Lessee has inspected the equipment fully and completely as to size, model, function and conformity to the purchase order,
- (2) That the equipment is of a size, design, function and manufacturer selected by Lessee,
- (3) That Lessee is satisfied that the same is suitable for its intended purposes and any special purposes of Lessee,

(4) LESSOR IS NOT A MANUFACTURER OF THE EQUIPMENT OR A DEALER IN SIMILAR EQUIPMENT AND HAS NOT INSPECTED THE EQUIPMENT PRIOR TO DELIVERY TO AND ACCEPTANCE BY LESSEE. LESSOR BY VIRTUE OF HAVING LEASED THE EQUIPMENT UNDER THIS LEASE OR BY VIRTUE OF ANY NEGOTIATIONS IN RESPECT TO THIS LEASE HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO CONDITIONS, QUALITY, DURABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR USE OR FITNESS FOR A PARTICULAR PURPOSE OR AS TO ANY OTHER WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT.

(5) That the equipment is new and unused, and that the equipment has been delivered to, is now in possession of and acceptable to Lessee.

LESSOR:
MCDONNELL DOUGLAS FINANCE CORPORATION

LESSEE:
XTRA LEASING INC.

By _____
Title _____

By _____
Title _____

LEASE ADDENDUM NO. 1

In connection with that certain Lease Agreement dated as of June 17, 1980, (the "Lease") between McDonnell Douglas Finance Corporation as Lessor (the "Lessor") and Xtra Leasing Inc. as Lessee (the "Lessee") covering certain items of equipment ("Equipment") more fully described in the Individual Equipment Records ("IER") identified as Exhibit "A" thereto, it is agreed that, upon execution by the parties hereto, this Lease Addendum shall constitute a part of said Lease.

If for any taxable year of Lessor (or portion thereof) during which the Lease is in effect, Lessor (such term for the purpose of this Lease Addendum meaning Lessor and the corporations with which Lessor consolidates its United States federal income tax returns) shall (i) lose any portion of the full 10% investment tax credit allowed by Section 38 of the Internal Revenue Code of 1954 as amended to the date hereof (the "Code") for "new Section 38 property" with respect to the purchase price paid by Lessor for any item of Equipment (or would lose such portion if Lessor had sufficient liability for tax within the meaning of Section 46 of the Code against which to credit such portion for the taxable year of Lessor in which such item of Equipment is placed in service), and/or (ii) lose the benefit of a depreciation deduction with respect to the purchase price paid by Lessor for any item of Equipment using the Class Life Depreciation Range System prescribed by Section 167(m) of the Code and Treasury Regulations 1.167(a)-11 and depreciating the Equipment over a period equal to 12 years to a net salvage value of 12% of the purchase price of such item of Equipment and not less than 12 months of depreciation will be allowable to the Lessor with respect to the equipment for the taxable year ending December 31, 1980, computed initially under the double-declining balance method of depreciation provided in Section 167(b)(2) of the Code and then switching to the sum-of-the-years' digits method of depreciation provided by Section 167(b)(3) of the Code (or would lose the benefit of such deduction if Lessor had sufficient gross income in the taxable year of the loss of such deduction against which to apply such deduction), as a result of any act, failure to act, omission or breach or inaccuracy of any representation or statement by Lessee of any nature whatsoever the Lessee shall pay the Lessor (1) a sum which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt of such sum under the laws of any Federal, state or local government or taxing authority in the United States, shall be equal to the amount of investment tax credit so lost (or which would have been lost had Lessor had sufficient liability for tax within the meaning of Section 46 of the Code), (2) the amount of any interest and the amount of any penalties or additions to tax which may be payable to the United States Government by Lessor in connection with the loss of such investment tax credit, (3) with respect to each taxable year for which Lessor shall lose the benefit

of a depreciation deduction indemnified against by Lessee hereunder, a sum which, after deduction of all taxes required to be paid by Lessor in respect of the receipt of such sum under the laws of any Federal, state, or local government or taxing authority in the United States shall be equal to the amount of any additional Federal income taxes required to be paid with respect to such year (or which would have been required to be paid by Lessor for such year had it had sufficient gross income within the meaning of Section 61 of the Code to actually derive the benefit of such depreciation deduction) by reason of such loss of depreciation deduction (net of an appropriate adjustment based on savings in Federal income taxes which Lessor will be able to realize over the term of the Lease by reason of Lessor not being required to include in its Federal gross income the full amount of rent paid by Lessee) and (4) the amount of interest, penalties and additions to tax (including any additions to tax because of underpayment of estimated tax) which may be payable by Lessor to the United States Government in connection with the loss of such depreciation deduction, provided that the Lessee shall not be required to make any of the foregoing indemnity payments to the extent the loss of the investment tax credit and/or depreciation deduction is the direct result of: (a) any event whereby Lessee is required by the terms of the Lease to pay, and shall have paid in full the Stipulated Loss Value for such item of Equipment; (b) at any time while no event of Default is continuing Lessor shall voluntarily transfer legal title in such Equipment to a third party; (c) the failure of Lessor to have sufficient liability for tax within the meaning of Section 46 of the Code against which to credit such investment tax credit for such item of Equipment or to have sufficient gross income within the meaning of Section 61 of the Code against which to apply such depreciation deduction (but only if and to the extent that such investment tax credit or depreciation deduction would not be lost if Lessor had sufficient liability for tax or sufficient gross income); and (d) the failure of Lessor to claim the investment tax credit and/or depreciation deduction in its income tax returns for the appropriate year or to follow proper procedure in claiming such investment tax credit and/or depreciation deduction in such tax returns for such year, if such failure to claim or follow proper procedure shall preclude Lessor from claiming the investment tax credit and/or depreciation.

Except as otherwise provided in the immediately following paragraph, the liability of the Lessee to make any indemnity payments hereunder shall become fixed at the time Lessor makes payment of the tax attributable to the portion of the investment tax credit or depreciation deduction lost, the date on which Lessor files its tax return for the taxable year in which such loss occurs, and shall be due and payable within 15 days after receipt by Lessee of written notice from Lessor as to the fixing of such liability.

Lessee shall pay interest at the maximum rate permitted by law on any indemnity payment not made when due.

In the event a claim shall be made by the Internal Revenue Service

which, if successful, would result in the loss of the investment tax credit or depreciation deduction under circumstances which would require the Lessee to indemnify the Lessor for such loss, the Lessor hereby agrees to take such action in connection with contesting such claim as the Lessee shall reasonably request in writing, provided that: (i) within 30 days after written notice of such claim by Lessor, the Lessee shall request that such claim be contested; (ii) Lessor, at its option, may forego any and all administrative appeals, proceedings, and conferences with the Internal Revenue Service and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate forum selected by Lessor or contest such claim in the United States Tax Court, considering however, in good faith such request as the Lessee shall make concerning the appropriate forum in which to proceed; (iii) prior to taking such action, the Lessee shall have furnished the Lessor with an opinion of independent tax counsel, satisfactory to Lessor, to the effect that a meritorious defense exists to such claim; (iv) Lessee shall have indemnified Lessor in a manner reasonably satisfactory to it for any liability, loss, or expenses which Lessor may incur as the result of contesting such claim, and (v) in the event Lessor shall pay the tax claimed and then seek a refund and the final determination of such claim shall be adverse to Lessor, Lessee shall pay Lessor interest at the rate of 10% per annum on the amount of the tax paid attributable to the portion of the investment tax credit or depreciation deduction lost, computed from the date of payment of such tax to the date Lessee shall reimburse Lessor for the payment of such tax. In the case of any such claim by the Internal Revenue Service referred to above, Lessor agrees to promptly notify the Lessee in writing of such claim and agrees not to make payment of the tax claimed for at least 30 days after the giving of such notice and agrees to cooperate with Lessee in good faith in order to contest effectively any such claim. If any such claim shall be made by the Internal Revenue Service and Lessee shall have reasonably requested Lessor to contest such claim and shall have duly complied with all provisions of this paragraph, the Lessee's liability with respect to the investment tax credit or depreciation deduction lost as a consequence of such claim shall become fixed upon final determination of the liability of Lessor for the tax claimed and after giving effect to any refund obtained; but in all other cases the liability of Lessee shall become fixed and payable as provided in the immediate preceding paragraph.

The indemnification provided herein shall survive the expiration or other termination of the Lease.

Dated as of June 17, 1980.

Lessor: McDonnell Douglas
Finance Corporation

By: *Ray P. [Signature]*

Its: *Authorized Agent*

Lessee: Xtra Leasing, Inc.

By: *Ernest P. [Signature]*

Its: *Pres*