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ROBERT E. STIGGER

9-095A036

April 3, 1989

16269
RECORDATION NO. FILED 1425

APR 5 1989 -2 10 PM

INTERSTATE COMMERCE COMMISSION

VIA FEDERAL EXPRESS
750 589 1131

Date: 4/5/89
Fee: \$13.00

Interstate Commerce Commission
12th and Constitution Avenue N.W. Washington, D. C.
Room 2303
Washington, DC 20425
Attention: Ms. Mildred Lee

Re: Filing of Railroad Equipment Lease
Our File No. 77544-00-007

Dear Ms. Lee:

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

This document is a Lease of Railroad Equipment, a primary document, dated as of November 1, 1988.

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

Lessor: Industrie-Leasing AG
P.O. Box 8040
Zurich, Switzerland

Lessee: American European Express, Inc.
100 Delwood Beach Road
Panama City, Florida 32407

A description of the equipment covered by the document follows:

Four (4) railcars, including:

APR 5 2 05 PM '89
MOTOR OPERATING UNIT

Interstate Commerce Commission
April 3, 1989
Page 2

1) One 10 Roomette, 6 Bedroom Sleeper, originally identified as Car No. 2613, Plan No. 4167, Lot No. 6864, D.O.M. 1950, currently identified as Car No. 800258.

2) One 11 Bedroom Sleeper, originally built for the Union Pacific Railroad and formerly identified as their car "Placid Waters," currently identified as Car No. 800109.

3) One 11 Bedroom Sleeper, originally built for the Union Pacific Railroad and formerly identified as their car "Placid Bay," currently identified as Car No. 80055.

4) One 10 Roomette, 6 Bedroom Sleeper, originally identified as B&O Railroad Car No. 7045, Plan No. 4167, Lot No. 6864 and formerly known as the "Opequon," currently identified as Car No. 800231.

All of the railcars listed above shall, at or prior to being placed into commercial service, bear, in letters not less than one inch in height, the following name and words:

"Industrie-Leasing AG,
Zurich, Switzerland, Owner"

A fee of \$13.00 is enclosed for the filing of the above indicated document. Please return the original and any extra copies not needed by the Commission for recordation to:

American European Express, Inc.
c/o Its Attorneys:
Portes, Sharp, Herbst & Kravets, Ltd.
333 West Wacker Drive, Suite 500
Chicago, Illinois 60606
Attn: Robert E. Stigger
(312) 372-1555

A short summary of the document to appear in the index follows:

Lease of Railroad Equipment between Industrie-Leasing AG (Lessor), P.O. Box 8040, Zurich, Switzerland and American European Express, Inc. (Lessee), 100 Delwood Beach Road, Panama City, Florida 32407, dated as of November 1, 1988, and covering the following equipment:

Four (4) railcars, including:

Interstate Commerce Commission
April 3, 1989
Page 3

1) One 10 Roomette, 6 Bedroom Sleeper, originally identified as Car No. 2613, Plan No. 4167, Lot No. 6864, D.O.M. 1950, currently identified as Car No. 800258.

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All of the railcars listed above shall, at or prior to being placed into commercial service, bear, in letters not less than one inch in height, the following name and words:

"Industrie-Leasing AG,
Zurich, Switzerland, Owner"

Thank you for your attention to this matter.

Very truly yours,

AMERICAN EUROPEAN EXPRESS, INC.

By its attorneys: Portes, Sharp, Herbst
& Kravets, Ltd.

By: Robert E. Stigger
Robert E. Stigger

RES/lah
Enclosure

Interstate Commerce Commission
Washington, D.C. 20423

4.7.89

OFFICE OF THE SECRETARY

Robert E. Stigger
Portes, Sharp, Herbst, & Kravets, Ltd
333 West Wacker Drive, Suite 500
Chicago, Illinois 60606
Ref: American European Express, Inc

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 4.5.89 at 2:10pm, and assigned recordation number(s). 16269

Sincerely yours,

Neta L. McEneaney
Secretary

Enclosure(s)

16269

RECORDATION #10 _____ FILED 1425

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

APR 5 1989 -2:10 PM

INTERSTATE COMMERCE COMMISSION

The undersigned, a notary public in and for the State of Illinois, does hereby certify that on April 3, 1989 the undersigned compared the attached photocopy of that certain original document entitled "Lease of Railroad Equipment between Industrie-Leasing AG and American European Express, Inc.," dated as of November 1, 1988, with such original document and found the copy to be a true copy, complete and identical in all respects to the original document.

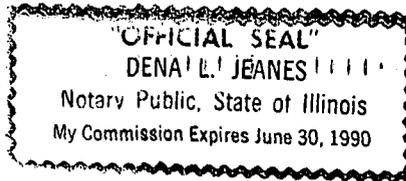
Witness my hand and seal.

(S E A L)



Notary Public

My commission expires: _____



16269

RECORDATION NO _____ FILED 1425

APR 5 1989 -2 10 PM

INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

between

INDUSTRIE-LEASING AG

and

AMERICAN EUROPEAN EXPRESS, INC.

DATED AS OF NOVEMBER 1, 1988

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LEASE OF RAILROAD EQUIPMENT

Lease dated as of November 1, 1988, between INDUSTRIE-LEASING AG, P.O. Box 8040, Zurich, Switzerland ("Lessor"), and AMERICAN EUROPEAN EXPRESS, INC., a Delaware corporation having its principal office at 100 Delwood Beach Road, Panama City, Florida 32407, U.S.A. ("Lessee").

W I T N E S S E T H :

WHEREAS, Lessee desires Lessor to acquire from the present owners thereof (each a "Seller" and collectively the "Sellers") the units of Railroad Equipment more particularly described on Schedule A attached hereto and made a part hereof (each a "Unit" and herein collectively called the "Units" or the "Equipment"); and

WHEREAS, Lessor is willing to acquire the Units on the terms and conditions hereinafter set forth and to lease the same to Lessee pursuant to this Lease; and

WHEREAS, Lessee will enter into an Agreement (the "Reconstruction Contract") with Kasten Railcar Services, Inc. (the "Contractor"), in form and substance satisfactory to Lessor, pursuant to which the Contractor will rehabilitate and make certain improvements in the Units as more particularly set forth in the Reconstruction Contract and Lessor is willing, subject to the terms and conditions hereinafter set forth, to make payment to the Contractor of amounts due under the Reconstruction Contract on condition that Lessee shall assign to Lessor, contemporaneously with Lessor's acquisition of the Units, Lessee's rights (but not its obligations) under the Reconstruction Contract pursuant to a Reconstruction Contract Assignment (the "Reconstruction Contract Assignment") in the form annexed hereto as Exhibit A; and

WHEREAS, subject to the terms and conditions hereinafter set forth, Lessor is willing to make payments to such other contractors for remodeling and furnishing the interiors of the Units;

NOW, THEREFORE, it is agreed as follows:

1. Lease. Lessor will acquire and lease to Lessee, and Lessee will lease from Lessor all Units delivered on or before December 30, 1988, subject to satisfaction of the conditions set forth in Sections 27 and 28.

2. Interim Term; Basic Term. The interim term of this Lease (the "Interim Term") shall commence, with respect to any Unit on the date of acquisition of such Unit by Lessor (which shall be the date of the Acceptance Certificate with respect to such Unit) and shall expire on the day immediately preceding the date on which the Basic Term commences. The basic term of this Lease (the "Basic Term") shall commence on the date (the "Basic Term Commencement Date") which is the earlier of (a) the date on which all Units have been reconstructed in accordance with the Reconstruction Contract and such reconstruction is substantially complete or (b) August 15, 1989.

3. Rent. Lessee shall pay to Lessor rent for the Interim Term (the "Interim Rent") in an amount in U.S. dollars equal to interest at the rate to be determined from time to time by Lessor in accordance with the prevailing market conditions at the time of such determination on all amounts advanced by Lessor on account of Lessor's Cost (as hereinafter defined) for each Unit but not including the date of advance thereof to and including the Basic Term Commencement Date. Such Interim Rent shall be due and payable on the Basic Term Commencement Date provided that Lessee, at its option may elect to capitalize Interim Rent and include the same in Lessor's Cost (provided, that such capitalization of Interim Rent when added to the other components of Lessor's Cost for all the Units shall not exceed Lessor's Cap), and if Lessee shall fail to pay Interim Rent when due, Lessee shall be deemed to have so elected. Lessee shall pay to Lessor rent for the Basic Term (the "Basic Rent") for the Units in 10 semi-annual installments, in advance, commencing with the Basic Term Commencement Date, each such installment to be payable in U.S. dollars in an amount equal to 11.5% of Lessor's Cost for such Unit. Lessor's Cost for a Unit shall mean the sum of (w) all amounts paid by Lessor on its initial acquisition of such Unit pursuant to Section 27 hereof (x) all amounts paid by Lessor pursuant to the Reconstruction Contract for such Unit pursuant to Section 29 hereof (y) all amounts paid by Lessor for the remodeling of the interior of such Unit pursuant to Section 30 hereof and (z) if Lessee shall so elect, all Interim Rent for such Unit, provided that if Lessee shall so elect Lessee, shall at the

time of such election also designate which category of expenses, clause (x) or clause (y) above, will have its maximum total amount reduced by the amount of any such capitalized Interim Rent; provided that the aggregate of Lessor's Cost for all the Units shall in no event exceed \$2,587,000 ("Lessor's Cap").

All rentals shall be paid to Lessor at Swiss Bank Corporation, Paradeplatz 6 CH-8001, Zurich, Switzerland, or at such other address as Lessor may specify by notice to Lessee. All such rentals shall be paid without notice or demand, and Lessee's obligation to pay such rentals shall be absolute and unconditional and not subject to any abatement, reduction, set-off, defense, counterclaim or recoupment ("Abatements") for any reason whatsoever (including, without limitation, Abatements due to any present or future claims of Lessee against Lessor under this Lease or otherwise, or against the manufacturer or vendor of the Equipment); nor, except as otherwise expressly provided herein, shall this Lease terminate or the obligations of Lessee hereunder be affected by reason of any defect in or damage to, or any loss or destruction of, any Equipment from any cause whatsoever, or the interference with the use thereof by any private person, corporation (other than Lessor) or governmental authority, or the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority to enter into this Lease, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law or regulation to the contrary notwithstanding. If any rentals or other sums due hereunder are not paid within five days of the due date thereof, Lessee shall pay to Lessor on demand, as additional rental, interest thereon from the due date until payment at a rate equal to the lesser of (i) 1.5 percent per month or (ii) the maximum rate permitted by law.

4. Identification Marks. The Lessee will cause each Unit to be kept numbered with the identifying number set forth on Schedule A attached hereto with respect thereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the following name and words:

"INDUSTRIE-LEASING AG,
ZURICH, SWITZERLAND, OWNER"

or other appropriate words designated by the Lessor, 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 and the rights of the Lessor under this Lease. The Lessee will not place any such Unit in operation or exercise any control or domination over the same until such name and words shall have been so marked on both sides thereof and will replace promptly any such name and words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

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

5. Disclaimer of Warranties. LESSEE ACKNOWLEDGES THAT: (i) THE EQUIPMENT IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY LESSEE; (ii) LESSOR IS NOT A MANUFACTURER THEREOF OR A DEALER IN PROPERTY OF SUCH KIND; (iii) NEITHER THE VENDOR(S) NAMED ON ANY SCHEDULE ("Vendor") NOR ANY REPRESENTATIVE OF ANY SUCH VENDOR OR ANY MANUFACTURER OF THE EQUIPMENT IS AN AGENT OF LESSOR OR AUTHORIZED TO WAIVE OR ALTER ANY TERM OR CONDITION OF THIS LEASE; AND (iv) LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE EQUIPMENT. Lessor shall not in any event be responsible to Lessee or anyone claiming through Lessee for any damages, direct, consequential, or otherwise, resulting from the delivery, installation, use, operation, performance or condition of any Equipment, or any delay or failure by any Vendor in delivering and/or installing any Equipment or performing any service for Lessee. Subject to Lessor's right to do so, Lessor hereby assigns and agrees to use its best efforts to otherwise make available to Lessee for the term of this Lease any warranty which has been extended to Lessor by the manufacturer or Vendor of the Equipment. Any amounts received by Lessee as payment under any such warranty shall be applied

to restore the Equipment to the condition required by this Lease, with the balance of such amount, if any, to be paid over to Lessor. Lessee shall not take any action or fail to take any action, the effect of which would be to invalidate such warranty.

6. Maintenance and Repairs. Lessee, at its own cost and expense, shall make all necessary and appropriate repairs, replacements and renewals, whether ordinary or extraordinary, foreseen or unforeseen, in each case so as to keep the Equipment in good operating condition in accordance with the procedures recommended by the manufacturer thereof to the extent reasonably necessary to maintain in full force and effect such manufacturer's warranties.

The Lessee agrees to comply in all respects with all laws of the jurisdictions in which the Units may be operated, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the Department of Transportation and the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units. In the event that such laws or rules require the alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense. Lessor shall not be required to make any repairs, replacements or renewals whatsoever to the Equipment or to make any expenditures in connection with the maintenance thereof. All replacement parts for the Equipment shall be the property of Lessor, and title thereto shall immediately vest in Lessor without further act at the time affixed to the Equipment. Lessee at its own expense may make such modifications, improvements, accessions and additions ("Additions") to the Equipment as Lessee may deem desirable; provided, however, that no such Addition shall diminish the value or utility of the Equipment or substantially change the nature or quality of the Equipment as reasonably determined by Lessor; and provided further, such Addition is readily removable from the Equipment without causing damage to the Equipment. Lessee may at any time prior to the return to or repossession of the Equipment by Lessor remove any such Addition, if such Addition (i) is not a substitute or replacement of any part of the Equipment, (ii) is not required by any law, regulation or order of any regulatory body to use, own or operate the

Equipment, and (iii) can be removed from the Equipment without causing any damage to or diminishment in the value or utility which the Equipment would have had at such time had such Addition not been made, assuming the Equipment was maintained as required by this Lease. Any such Addition complying with the requirements of the preceding sentence shall be a "Removable Addition". Title to any Removable Addition shall remain in Lessee; provided, however, that if any such Removable Addition shall not for any reason be removed from the Equipment prior to its return to or repossession by Lessor, title to such Removable Addition shall without compensation to Lessee vest in Lessor at the time of such return or repossession. Lessee further covenants that each such Removable Addition will at all times prior to removal be kept free and clear of any and all liens or encumbrances (subject to the same exceptions referenced in the second sentence of Section 12). Title to any Addition which does not constitute a Removable Addition shall without compensation to Lessee vest in Lessor at the time added or affixed to the Equipment. Additions made pursuant to the Reconstruction Contract shall not constitute Removable Additions. Notwithstanding the foregoing, Lessee shall not make any Additions to the Equipment unless the same are permitted without adverse tax affects to Lessor pursuant to Rev. Proc. 79-48, 1979-2 C.B. 529, as amended and supplemented from time to time.

7. Insurance. Lessee shall, at its expense, keep the Equipment insured against all risks of loss or physical damage for not less than its "Stipulated Loss Value" (as that term is defined on Schedule B attached hereto). Lessee shall further, at its expense, provide and maintain comprehensive public liability insurance against claims for bodily injury, death and/or property damage arising out of the use, ownership, possession, operation or condition of the Equipment; together with such other insurance as may be required by law or reasonably requested by Lessor. All said insurance shall name both Lessor and Lessee as parties insured and shall be in form and amount and with insurers reasonably satisfactory to Lessor, and Lessee shall furnish to Lessor certificates of the policies of such insurance and each renewal thereof. Each insurer must agree by endorsement upon the policy or policies issued by it that it will give Lessor not less than 30 days written notice before such policy or policies are cancelled or altered, and, under the physical damage insurance, that (a) losses shall be payable solely to Lessor, and (b) no act or omission of Lessee or any of its officers, agents, employees or representatives shall affect the obligation of the insurer to pay the full amount of any

loss. Lessee hereby irrevocably authorizes Lessor to make, settle and adjust claims under such policy or policies of physical damage insurance and to endorse the name of Lessee on any check or other item of payment for the proceeds thereof; it being understood, however, that unless otherwise directed in writing by Lessor, Lessee shall make and file timely all claims under such policy or policies, and unless Lessee is then in default, Lessee may, with the prior written approval of Lessor (which will not be unreasonably withheld) settle and adjust all such claims.

8. Risk of Loss. As used herein the term "Event of Loss" shall mean any of the following events with respect to any Equipment: (a) the actual or constructive total loss of such Equipment; (b) the loss, theft or destruction of such Equipment or damage to such Equipment to such extent as shall make repair thereof uneconomical or shall render such Equipment permanently unfit for normal use for any reason whatsoever; or (c) the condemnation, confiscation, requisition, seizure, forfeiture or other taking of title to or use of such Equipment. Except as expressly hereinafter provided, the occurrence of any Event of Loss or other damage to or deprivation of use of any Equipment, howsoever occasioned, shall not reduce or impair any obligation of Lessee hereunder, and, without limiting the foregoing, shall not result in any abatement or reduction in rentals whatsoever. Lessee hereby assumes and shall bear, from the time such risks pass to Lessor from the seller of each Unit until the expiration or termination of the Lease term and return of the Equipment to Lessor, the entire risk of any Event of Loss or any such other damage to or deprivation of use of the Equipment, howsoever occasioned.

Upon the occurrence of any damage to any Equipment not constituting an Event of Loss, Lessee shall, at its sole cost and expense, promptly repair and restore such Equipment so as to return such Equipment to substantially the same condition as existed prior to the date of such occurrence (assuming such Equipment was then in the condition required by this Lease). Provided that Lessee is not then in default hereunder, upon receipt of evidence reasonably satisfactory to Lessor of completion of such repairs and restoration in accordance with the terms of this Lease, Lessor will apply any insurance proceeds received by Lessor on account of such occurrence to the cost of such repairs and restoration; it being understood, however, that if at such time Lessee shall be in default hereunder, Lessor may, at its option, retain any part or all of such proceeds and apply same to any obligations of Lessee to Lessor.

Upon the occurrence of an Event of Loss, Lessee shall immediately notify Lessor in writing of such occurrence, fully informing Lessor of all details with respect thereto, and, on or before the first to occur of (i) 30 days after the date upon which such Event of Loss occurs, or (ii) five days after the date on which either Lessor shall receive any proceeds of insurance in respect of such Event of Loss or any underwriter of insurance on the Equipment shall advise Lessor or Lessee in writing that it disclaims liability in respect of such Event of Loss, Lessee shall pay to Lessor an amount equal to (a) the sum of all rentals and other sums then due hereunder and the Stipulated Loss Value of the affected Equipment as of the date of the Event of Loss (the "Casualty Value"), less (b) the amount of any insurance proceeds or condemnation or similar award by a governmental authority then actually received by Lessor on account of such Event of Loss. No delay or refusal by any insurance company or governmental authority in making payment on account of such Event of Loss shall extend or otherwise affect the obligations of Lessee hereunder. Lessee shall continue to pay all rentals and other sums due hereunder up to and including the date upon which the Casualty Value is actually received in full by Lessor, whereupon this Lease with respect to such Equipment shall terminate and all rentals reserved hereunder with respect to such Equipment, from the date such payment is received in full by Lessor, as aforesaid, to what would have been the end of the term hereof, shall abate. No such payment shall affect Lessee's obligations with respect to Equipment not subject to an Event of Loss. After receipt by Lessor of the Casualty Value in full, Lessor will upon request of Lessee transfer its interest, if any, in such Equipment to Lessee on an "as-is, where-is" basis and without warranty by or recourse to Lessor except as to freedom from Lessor's Liens.

The proceeds of insurance in respect of an Event of Loss and any award on account of any condemnation or other taking of any Equipment by a governmental authority shall be paid to Lessor and applied by Lessor against the obligation of Lessee to pay Lessor the Casualty Value of such Equipment (or, if Lessee shall have first paid the Casualty Value in full and is not in default hereunder, shall be promptly paid over by Lessor to Lessee up to the extent necessary to reimburse Lessee for payment of the Stipulated Loss Value); and the balance, if any, of such proceeds or award shall be paid over promptly by Lessor to Lessee if Lessee is not then in default hereunder. It is further understood that if at such time Lessee is in default here-

under, Lessor may at its option apply all or any part of such proceeds to any obligations of Lessee to Lessor.

9. General Indemnity. Lessee agrees to assume liability for, and does hereby agree to indemnify, protect, save, defend (at Lessee's sole expense) and hold Lessor harmless from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability), actions, suits, costs, expenses and disbursements (including, without limitation, legal fees and expenses) of any kind and nature whatsoever ("Claim" or "Claims") which may be incurred, imposed on or asserted against Lessor, whether or not Lessor shall also be indemnified as to any such Claims by any other person (but in no event shall Lessor be entitled to more than one recovery), in any way relating to or arising out of this Lease or any of the documents executed by Lessee in connection herewith or with any of the transactions contemplated hereby ("Lessee Documents"), or the performance or the enforcement after default of any of the terms hereof or of any of the Lessee Documents, or in any way relating to or arising out of the manufacture, ordering, purchase, acceptance, rejection, ownership, delivery, lease, sublease, possession, use, operation, maintenance, condition, registration, sale, return, storage or disposition of any Equipment or any accident in connection therewith (including, without limitation, latent and other defects, whether or not discoverable, and any Claims for patent, trademark or copyright infringement). Lessee agrees that Lessor shall not be liable to Lessee for any Claims caused directly or indirectly by the inadequacy of the Equipment for any purpose or any deficiency or defect therein or the use or maintenance thereof or any repairs, servicing or adjustments thereto or any delay in providing or failure to provide any thereof or any interruption or loss of service or use thereof or any loss of business, all of which shall be the risk and responsibility of Lessee. The indemnities and assumptions of liability provided in this Lease, including this Section 9 and Section 10 and 11, shall continue in full force and effect notwithstanding the termination of this Lease, whether by expiration of time, by operation of law or otherwise.

10. General Tax Indemnity; Withholdings. Lessee agrees to pay as and when due, and to indemnify and hold Lessor harmless from, all license and registration fees, taxes, levies, payments in lieu of taxes, assessments, imposts, duties, charges or withholdings including, without limitation, income, gross receipts, business activities,

leasing, lease use, franchise, sales, use, personal property (tangible or intangible), stamp, fuel, occupational and similar taxes of any nature whatsoever, together with any interest, penalties and additions to such taxes, and any fines (collectively, "Taxes") now or hereafter imposed against Lessor, Lessee, the Equipment or any part thereof; or the purchase, ownership, delivery, financing, leasing, subleasing, possession, use, operation, return or other disposition of the Equipment or any part thereof; the registration, deregistration, manufacture, acceptance, storage, repair, maintenance or abandonment of the Equipment or any part thereof; or with respect to any rentals (including indemnity payments), receipts or earnings therefrom; or with respect to this Lease or any Schedule, or any Lessee Documents. Notwithstanding the foregoing, the term Taxes shall not include the following Taxes: (i) Taxes that have been included in Lessor's actual cost of Equipment; (ii) Taxes on, based on, or measured by, the net income, capital or net worth of Lessor, or which are in the nature of a franchise tax imposed upon Lessor for the privilege of doing business imposed by (a) the United States of America or (b) any state or local government or taxing authority in the jurisdiction in which Lessor has its principal office, except (i) any tax which is in substitution for and relieves Lessee from the payment of any other tax or charge for which Lessee would be otherwise obligated to pay as provided herein and (ii) any withholding taxes whether or not imposed by a jurisdiction described in (a) or (b) above. Lessee further agrees (x) to hold Lessor harmless on an after-tax basis in accordance with the provisions of this Section 10 from any taxes required to be paid by Lessor with respect to the receipt of any payment or indemnity with respect to taxes under the laws of any taxing authority; and (y) in case any report or return is required to be made with respect to any Taxes, Lessee will notify Lessor of such requirement and make such report or return in such manner as shall be satisfactory to Lessor and send a copy to Lessor. Without limiting the generality of the foregoing, all payments under this Lease will be free of all withholding taxes and if any such tax is imposed on any such payment Lessee will pay to Lessor such additional amounts as may be necessary so that the net amount received by Lessor shall be equal to the amount which Lessor would have received had no withholding been imposed. Upon request of Lessor, Lessee will provide evidence satisfactory to Lessor that Lessee has paid all Taxes and filed all reports and returns required to be paid, prepared or filed by Lessee hereunder.

If not thereby subjecting any Equipment to forfeiture or sale, Lessee may at its expense contest in good faith, by appropriate proceedings, the validity and/or amount of any Taxes, provided that prior written notice of any such contest shall be given to Lessor.

For purposes of this Section 10, the term "Lessor" shall mean and include, in addition to Lessor, the affiliated group of corporations making a consolidated income tax return of which Lessor is a member, their successors and assigns.

11. Federal Income Tax Consequences. Lessee and Lessor agree that this agreement is intended as a lease for federal income tax purposes and for all other purposes and not as a conditional sale.

Lessee represents, warrants and covenants that: (i) no one other than Lessor or a party claiming through Lessor has any interest in the tax ownership of the Equipment; (ii) Lessee will not claim any depreciation deductions with respect to the Equipment; and (iii) it is reasonable to expect that at the expiration of the applicable Lease term the Equipment will have a remaining useful life of at least the longer of one year or 20% of the Equipment's total useful life and a residual value (without regard to inflation or deflation) of at least 20% of the cost of the Equipment to Lessor (however, this is not a guarantee of such value).

12. Title. Title to all Equipment shall remain in Lessor exclusively. Lessee shall keep the Equipment free from all liens and encumbrances except (a) Lessor's Liens (as defined below), (b) Liens for Taxes either not yet due or being contested in good faith by appropriate proceedings without material danger of sale or forfeiture of any item of Equipment, (c) materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business for amounts not yet delinquent or being contested in good faith by appropriate proceedings without material danger of the sale or forfeiture of any item of Equipment, (d) any Lien arising out of a judgment against Lessee with respect to which (i) an appeal or proceeding for review is being prosecuted in good faith and (ii) a stay of execution has been secured and (e) the rights of the Contractor under the Reconstruction Contract (all the Liens described in clauses (a), (b), (c), (d) and (e) above herein the "Permitted Liens"). "Lien" means any mortgage, pledge, security interest, encumbrance, lien, charge or any

other right or claim of any person. "Lessor's Lien" means any Lien (i) voluntarily incurred by Lessor, (ii) arising as a result of any Claim against or affecting Lessor, or any act or omission of Lessor, unrelated to the transactions contemplated by this Lease, or (iii) arising as a result of Taxes imposed upon Lessor which are not indemnified against by Lessee pursuant to this Lease. Lessee shall use the Equipment in a careful and proper manner, in compliance with all laws and regulations. Lessee shall execute and/or furnish to Lessor any further instruments and assurances reasonably requested from time to time by Lessor to protect its interest, and Lessee shall at its expense otherwise cooperate to defend the title of Lessor and to maintain the status of the Equipment as personal property, including, without limitation, the execution of financing statements and the furnishing of waivers with respect to rights in the Equipment from the owners and mortgagees of the real estate of which the Equipment is or will be located. Lessor may file or record any such financing statements, waivers or other instruments in order to protect its interest. If Lessor so requests, Lessee will at its expense, cause the Equipment to at all times during the term of the Lease be conspicuously marked to show the ownership of Lessor.

13. Quiet Enjoyment. So long as Lessee shall not be in default and fully performs all of its obligations hereunder, Lessor will not interfere with the quiet use and enjoyment of the Equipment by Lessee.

14. Return. Upon the expiration or earlier termination of this Lease with respect to any Equipment, Lessee shall return such Equipment to Lessor. Lessee shall make such return, at its expense, by causing such Equipment to be delivered to such storage tracks within the United States of America as Lessor may designate or if Lessor does not so designate, to storage tracks in Chicago, Illinois, designated by Lessee. Lessee shall pay to Lessor on demand as additional rental hereunder, the cost of any repairs necessary to then place the Equipment in the condition required by this Lease. If Lessor shall so require, Lessee will provide free storage and insurance for any Equipment at Lessee's location for a period not exceeding sixty (60) days from the date of expiration or earlier termination of this Lease. During any such storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives or any prospective purchaser of any such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its em-

ployees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court 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 to assemble, deliver, store and transport the Units. Each Unit returned to the Lessor pursuant to this Section shall (i) be in the condition required by Section 6 and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads.

15. Lessee's Representations and Warranties.

Lessee represents and warrants to Lessor that (a) Lessee is and shall at all times hereafter be duly organized and validly existing in good standing under the laws of the state indicated above and has duly authorized the execution, delivery and performance of this Lease; (b) this Lease has been duly and validly executed and delivered by Lessee and constitutes and will constitute the valid and binding obligation of Lessee, and is and will be enforceable in accordance with its terms; (c) the execution, delivery and performance of this Lease by Lessee will not violate any law or other governmental requirement or, if Lessee is a corporation, Lessee's corporate charter or by-laws; nor will it constitute a default under any agreement, instrument or document to which Lessee is now or hereafter a party or by which Lessee is now or will hereafter be bound; (d) all financial statements and information which have been or may hereafter be submitted to Lessor relating to Lessee or any guarantor of Lessee's obligations hereunder ("Guarantor") have been and will be complete, true and correct and have been and will be prepared in accordance with generally accepted accounting principles; (e) there has been no material adverse change in the financial condition of Lessee or any Guarantor since the last submission of such financial information to Lessor; and (f) the Equipment is being leased by Lessee solely for business or commercial purposes. Lessee agrees to deliver to Lessor at any time or times hereafter such documents, including, without limitation, certified resolutions and legal opinions, as Lessor may reasonably request to demonstrate Lessee's compliance with the foregoing. Each of the above warranties shall be continuing and shall be deemed remade concurrently with the execution by Lessee of each Schedule and Acceptance Certificate.

16. Assignment, Sublease, Merger. Lessee hereby consents to any assignment or encumbrance by Lessor of this Lease or all or any part of the rentals hereunder or the rights of Lessor in the Equipment, with or without notice. Lessee agrees that the rights hereunder of any assignee or creditor of Lessor shall not be subject to any defense, setoff or counterclaim that Lessee may have against Lessor, and that any such assignee or creditor shall have all of Lessor's rights hereunder, but none of Lessor's obligations. Notwithstanding the foregoing, no such assignment or encumbrance shall release any of Lessor's obligations hereunder or any claim which Lessee may have against Lessor and no such assignment shall increase Lessee's liability under this Lease. Neither this Lease nor any of Lessee's rights hereunder shall be assignable by Lessee, either by its own act or by operation of law, without the prior written consent of Lessor (which consent shall not be unreasonably withheld), and such attempted assignment shall be void provided, however, Lessee may merge or consolidate with any other corporation provided that the surviving corporation has a net worth and credit standing at least equal to that of Lessee immediately prior to such merger. Lessee further agrees it will not, without the prior written consent of Lessor, allow the Equipment to be used by persons other than employees of Lessee or permitted sublessee.

17. Lessor's Right to Perform Obligations. If Lessee shall fail to make any payment or perform any act or obligation required of Lessee hereunder, Lessor may (but need not) at any time thereafter make such payment or perform such act or obligation at the expense of Lessee. Any payment so made or expense so incurred by Lessor shall constitute additional rental hereunder payable by Lessee to Lessor upon demand. The performance of any act or payment of any monies by Lessor, as aforesaid, shall not be deemed a waiver or release of any obligation or default on the part of Lessee. Notice is hereby given that Lessor shall not be liable for any labor, service or materials furnished or to be furnished to Lessee or with respect to any Equipment.

18. Events of Default. Lessee shall be in default hereunder if any of the following events (each an "Event of Default") shall occur and be continuing:
(a) Lessee shall fail to pay any installment of rental or other sum due hereunder and such failure shall continue for more than five days; or (b) Lessee shall fail to observe or perform any other provision of this Lease or the Reconstruction Contract Assignment and such failure shall continue for more than 30 days after written notice thereof from Lessor

to Lessee; or (c) Lessee shall fail to maintain in effect any insurance required by this Lease; or (d) any representation or warranty of Lessee in this Lease or in any document executed by Lessee in connection herewith shall prove to be untrue when made in any material respect; or (e) Lessee or any Guarantor shall become insolvent, cease doing business as a going concern or make an assignment for the benefit of creditors; or (f) Lessee or any Guarantor shall apply for or consent to the appointment of a custodian, receiver, trustee or liquidator for all or substantially all of its or his property, or such a custodian, receiver, trustee or liquidator is appointed without the consent of Lessee and such appointment is not vacated within 60 days; or (g) a petition shall be filed by or against Lessee or any Guarantor under the Federal Bankruptcy Act or any similar law or regulation providing for the relief of debtors (including, without limitation, a petition for reorganization, arrangement, composition, extension or liquidation), and if such petition is filed against Lessee or such Guarantor, it is not dismissed, within 60 days; or (h) Lessee shall default under any other agreement providing for the payment of borrowed money, the deferred purchase price of property or rent or hire under any lease or charter of real or personal property; or (i) prior to completion of performance under the Reconstruction Contract, the Reconstruction Contract shall cease to be in full force and effect or the Contractor shall default thereunder or under its Consent and Agreement to the Reconstruction Contract Assignment; or (j) Lessee shall submit a notice for payment of an installment of the Contract Price which when added to installments previously paid exceeds the limitation for each Unit set forth in Section 29 hereof or Lessee shall submit an invoice or invoices for payment which when aggregated with all invoices previously submitted to and paid by the Lessor and with all installments paid by the Lessor shall exceed the limitation set forth in Section 29 hereof; or (k) Lessee shall fail to observe or perform any provision of the Reconstruction Contract; or (l) Lessee shall submit a notice or an invoice for payment in connection with the remodeling of the interior of the Units which when aggregated with all notices and invoices previously submitted to and paid by the Lessor shall exceed the limitation set forth in Section 30 hereof.

19. Remedies Upon Default. If an Event of Default shall occur and be continuing, Lessor may, at its option, do one or more of the following: (a) terminate this Lease and Lessee's rights hereunder; (b) proceed by appropriate court action to enforce performance of the terms of this Lease and/or recover damages for the breach hereof;

(c) by notice in writing, cause Lessee, at Lessee's expense, promptly to return the Equipment to the possession of Lessor in accordance with the terms of Section 14 hereof, or Lessor directly or by its agent, and without notice or liability or legal process may enter upon any premises where any Equipment is located, take possession of such Equipment, and either store it on said premises without charge or remove the same; and/or (d) declare as immediately due and payable and forthwith recover from Lessee (subject to a credit as provided in clauses (x) or (y) of the second following sentence), as liquidated damages and not as a penalty, an amount equal to the sum of (i) all rentals and other sums then due and unpaid hereunder and (ii) the then aggregated Stipulated Loss Value of the Equipment ("Liquidated Damages"), together with interest thereon as provided in Section 3 hereof and all other charges recoverable hereunder. In the event of any repossession of any Equipment by Lessor, Lessor may (but need not), without notice to Lessee, (A) hold or use all or part of such Equipment for any purpose whatsoever, (B) sell all or part of such Equipment at public or private sale for cash or on credit and/or (C) relet all or part of such Equipment upon such terms as Lessor may solely determine, in each case without any duty to account to Lessee except as herein expressly provided. After any repossession of Equipment by Lessor there shall be applied on account of the obligations of Lessee hereunder one of the following chosen at the option of Lessor: (x) the net proceeds actually received by Lessor from a sale of such Equipment, after deduction of all expenses of sale and other expenses recoverable by Lessor hereunder, or (y) the then "net fair market value" of such Equipment, as determined by an appraisal made by an independent appraiser selected by Lessor at Lessee's expense, taking into account a reasonable estimate of all expenses necessary to effect a sale and the other expenses recoverable by Lessor hereunder; and Lessee shall remain liable, subject to all provisions of this Lease, for the balance of the Liquidated Damages and all other charges hereunder. No termination, repossession or other act by Lessor after default shall relieve Lessee from any of its obligations hereunder. In addition to all other charges hereunder, Lessee shall pay to Lessor on demand all fees, costs and expenses incurred by Lessor as a result of such default, including without limitation, reasonable attorneys', appraisers' and brokers' fees and expenses and costs of removal, storage, transportation, insurance and disposition of the Equipment (except to the extent deducted from "net fair market value" or net proceeds of sale, as aforesaid). In the event that any court of competent jurisdiction determines that any provision of this

Section 19 is invalid or unenforceable in whole or in part such determination shall not prohibit Lessor from establishing its damages sustained as a result of any breach of this Lease in any action or proceeding in which Lessor seeks to recover such damages. To the extent permitted by law, Lessee hereby waives trial by jury in any action between Lessor and Lessee. The remedies provided herein in favor of Lessor shall not be exclusive, but shall be cumulative and in addition to all other remedies existing at law or in equity, any one or more of which may be exercised simultaneously or successively.

20. Non-Waiver. Lessor's failure at any time to require strict performance by Lessee of any provision hereof shall not waive or diminish Lessor's rights thereafter to demand strict performance thereof or of any other provision. None of the provisions of this Lease shall be held to have been waived by any act or knowledge of Lessor, but only by written instrument executed by Lessor and delivered to Lessee. Waiver of any default shall not be a waiver of any other or subsequent default.

21. Notices; Inspection; Communications. Lessee shall give Lessor immediate notice of any attachment, judicial process, lien, encumbrance or claim affecting the Equipment, any loss or damage to the Equipment or material accident or casualty arising out of the use, operation or condition of the Equipment, and any change in the residency or principal place of business of Lessee or any Guarantor. Lessor may (but need not), for the purpose of inspection, at all reasonable business hours, enter from time to time upon any premises where the Equipment is located. All notices required or permitted hereunder shall be in writing and shall be deemed duly given if delivered personally or mailed, by first class, registered or certified mail, to the respective addresses of the parties set forth at the beginning of this Lease or any other address designated by notice served in accordance herewith.

22. Financial and Other Information. Lessee shall furnish to Lessor (a) within 45 days after the end of each fiscal quarter of Lessee during the term hereof, a statement of profit or loss and of surplus of Lessee for the quarter then ended, and a balance sheet of Lessee as at the end of such quarter, all in reasonable detail and certified by its principal financial officer; and (b) within 120 days after the end of each fiscal year of Lessee during such time, a statement of profit and loss and of surplus of Lessee for such fiscal year-end and a balance sheet of

Lessee as at the end of such year, all in reasonable detail and certified by a reputable firm of independent public accountants. Lessee shall furnish to Lessor such other information about the condition and affairs of Lessee and any Guarantor and about the Equipment as Lessor may from time to time reasonably request.

23. Miscellaneous. If any provision of this Lease or the application thereof is hereafter held invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and to this end the provisions of this Lease are declared severable. Titles to Sections shall not be considered in the interpretation of this Lease. This Lease (including the Schedules, Annex and Exhibits hereto) sets forth the entire understanding between the parties and may not be modified except in a writing signed by both parties. Except as may be expressly provided in Section 24 hereof or in any Schedule, Annex or Exhibit hereto, no options to purchase any of the Equipment or extend the term of this Lease with respect to any Equipment have been granted to Lessee by Lessor, and none shall be implied by this Lease. If there is more than one Lessee, the obligations of Lessee hereunder are joint and several. The necessary grammatical changes required to make the provisions hereof apply to corporations, partnerships and/or individuals, men or women, shall in all cases be assumed as though in each case fully expressed. Subject to the terms hereof, this Lease shall be binding upon and inure to the benefit of Lessor and Lessee and their respective personal representatives, successors and assigns.

24. Purchase Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may, by giving Lessor 60 days written notice prior to the end of the term of this Lease, elect at the end of the term of this Lease, to purchase all, but not fewer than all, of the Units then covered by this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term. Fair Market Value shall be determined on the basis of, and shall be equal to and amount to, the value which one would obtain in an arm's length transaction between an informed and willing buyer and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall be a deduction from such value.

If within 30 days after the election by Lessee to purchase the Units pursuant to the first paragraph of this Section 24, the Lessor and the Lessee are unable to agree

upon a determination of the Fair Market Value of the Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or, failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. 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 fee of the Appraiser shall be borne by the Lessee.

25. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act, and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Lease or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

26. Recording; Expenses. Prior to the delivery and acceptance hereunder of any Unit, the Lessee will cause this Lease to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will re-file, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of proper protection, to the satisfaction of the Lessor, of the Lessor's interest in the Units, or for the purpose of carrying out the intention of this Lease; and the Lessee will promptly furnish to the Lessor evidences of all such filing, recording or depositing, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor.

The Lessee will pay the costs and expenses of Lessor in connection with the preparation, execution and filing of this Lease including reasonable legal fees.

27. Lessor's Initial Acquisition of the Units; Conditions Precedent. Subject to the satisfaction of the following conditions, Lessor will pay to the Seller of each Unit the acquisition price thereof and will execute an acceptance certificate for such Unit and to subject such Unit to this Lease. The obligation of Lessor to acquire the Units from the Sellers thereof is subject to the following conditions having been complied with to the satisfaction of the Lessor, or waived by the Lessor, on the date of acquisition (the "Delivery Date").

27.1 Authorization, Execution and Delivery of Documents. The following documents shall have been duly authorized, executed and delivered by the parties thereto and, other than with respect to documents attached hereto as Exhibits, shall each be satisfactory in form and substance to Lessor, and shall be in full force and effect on such Delivery Date, and a fully-executed copy of each such document shall have been delivered to Lessor:

27.1.1 Lease. This Agreement.

27.1.2 Reconstruction Contract; Reconstruction Contract Assignment. The Reconstruction Contract and the Reconstruction Contract Assignment, together with the Consent and Agreement of the Contractor annexed thereto.

27.1.3 Acceptance Certificate. An acceptance certificate for such Unit (the "Acceptance Certificate") executed by Lessor and Lessee, confirming that Lessee has accepted such Unit for all purposes of this Lease.

27.1.4 Agreement to Purchase and Bills of Sale. The following documents: (i) An Agreement to Purchase Rail Cars, in form and substance satisfactory to the Lessor, executed by the Lessor and the Seller, specifying, inter alia, the acquisition price payable to Seller on the Delivery Date for each Unit (which shall not exceed the estimated acquisition price set forth in Schedule A); and (ii) A warranty bill of sale for the Unit executed by Seller in favor of the Lessor dated such Delivery Date.

27.2 Notice. Lessor shall have received not less than five business days' prior notice of such Delivery Date (unless such notice shall have been waived).

27.3 Legality of Acquisition. No change shall have occurred after the date of this Lease in applicable law or regulations thereunder or interpretations thereof by ap-

propriate regulatory authorities which would make it illegal for Lessor to acquire such Unit.

27.4 Consents and Approvals. All approvals and consents of any trustee or holder of any indebtedness or obligation of Lessee or any of Lessee's affiliates which are required in connection with any of the transactions contemplated by this Lease or any of the other agreements referred to herein shall have been duly obtained, and evidence thereof satisfactory in form and substance to Lessor, shall have been delivered to Lessor. All appropriate action, if any, required to have been taken in connection with any of the transactions contemplated by this Lease or any agreement referred to herein shall have been duly taken by each governmental authority or agency having jurisdiction.

27.5 Insurance. Lessor shall have received satisfactory evidence as to Lessee's due compliance with the provisions of Section 7 hereof.

27.6 Resolutions, etc. Lessor shall have received the following:

(i) A copy of resolutions of the Board of Directors of Lessee, certified by the Secretary of Lessee duly authorizing the lease by Lessee of the Units and the execution, delivery and performance by Lessee of this Lease, and each other agreement required to be executed and delivered in accordance with the provisions of this Lease, together with an incumbency certificate as to the person or persons authorized to execute and deliver such documents on behalf of Lessee.

(ii) Such other documents and evidence with respect to Lessee, Seller and Contractor as Lessor may reasonably request in order to establish the consummation of the transactions contemplated by this Lease, the taking of all corporate proceedings in connection therewith and compliance with the conditions set forth in this Section 27.

27.7 Officer's Certificate. The following statements shall be correct and Lessor shall have received a certificate signed by the President or Vice President of Lessee, dated such Delivery Date, to the following effect:
(i) the representations and warranties of Lessee contained

in Sections 11 and 15 hereof are correct on and as of such Delivery Date as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date (in which case such representations and warranties shall be correct on and as of such earlier date) and (ii) no event has occurred and is continuing, or would result from the lease of such Unit pursuant hereto, which constitutes an Event of Default.

27.7.1 No Adverse Developments. Nothing has occurred between November 1, 1988 and such Delivery Date which would reasonably be expected to affect materially and adversely the ability of Lessee to carry on its business and to perform its obligations hereunder.

27.8 Title. Lessor shall have received evidence satisfactory to it to the effect that Lessor has good title to such Unit, as free and clear of all Liens except the rights of Lessee hereunder, Lessor's Liens, and Permitted Liens.

27.9 Filing; Recordation. The recordation described in Section 26 hereof and all filings which Lessor deems necessary or desirable to establish, protect, perfect and preserve Lessor's right, title and interest in and to the Units shall have been duly made.

27.10 Opinion of Counsel for Lessee. Lessor shall have received an opinion of counsel for Lessee in the form of Annex I.

27.11 Opinion of Counsel for Contractor. Lessor shall have received an opinion of counsel for the Contractor in the form of Annex II.

27.12 Guarantee. 21st Century Limited Holding AG, a corporation organized under Swiss Law having its principal office in Zug, Switzerland, shall have secured the obligations of Lessee under this Lease by way of a joint and several guarantee in the amount of U.S. \$2,587,000, in form and substance satisfactory to Lessor.

28. Condition Precedent to Lessee's Obligations. The obligation of Lessee to execute any Acceptance Certificate shall be subject to the condition that Lessor shall have paid the purchase price for the Units described in such Acceptance Certificate to the Seller.

29. Payment of Contract Price; Conditions Precedent. Lessor shall pay to the Contractor not more frequently than bi-weekly the installments of Contract Price due under the Reconstruction Contract with respect to each Unit previously acquired by Lessor and leased hereunder pursuant to Section 27, provided that each installment of Contract Price for each Unit (excluding any payment for engineering and design (the "Engineer and Design Fee")) when aggregated with installments previously made by Lessor pursuant to this Section 29 for such Unit shall not exceed the amount set forth for such Unit on Schedule C attached hereto, as such amount may be adjusted in accordance with Section 3 hereof, subject to satisfaction of the following conditions on each date of payment ("Payment Date"):

29.1 Notice. Lessor shall have received from Lessee not less than five business days' prior notice specifying the amount of Contract Price to be paid.

29.2 Invoice. Lessor shall have received an invoice from the Contractor, countersigned by Lessee, specifying the amount payable, provided that (i) each invoice when aggregated with all invoices previously submitted to and paid by the Lessor for such Unit and with all installments paid by Lessor pursuant to Section 29 hereof for such Unit (excluding the Engineer and Design Fee) shall not exceed the amount set forth for such Unit on Schedule C attached hereto, as such amount may be adjusted in accordance with Section 3 hereof and (ii) each invoice for Engineer and Design Fee when aggregated with all invoices previously submitted to and paid by Lessor for Engineer and Design Fee shall not exceed \$13,850.

29.3 Officer's Certificate. The following statements shall be true and correct and Lessor shall have received a certificate signed by the President or a Vice President of Lessee dated such Payment Date to such effect: (i) Contractor has duly performed its obligations under the Reconstruction Contract up to such Payment Date, (ii) Lessee has inspected and all the work under the Reconstruction Contract to such Payment Date has been performed in a good and workmanlike manner and (iii) Lessee has no reason to believe that the Project as defined and described in the Reconstruction Contract will not be completed on schedule and without cost overruns.

29.4 Payments Within Budget. The aggregate amounts paid by Lessor pursuant to this Section 29 shall not exceed the Contract Price specified in the Reconstruction

Contract, provided that such amount shall in no event exceed \$1,389,270 (or such lesser amount if adjusted in accordance with Section 3 hereof) for the reconstruction of the Units, and \$13,850 for the Engineer and Design Fee for the Units, without Lessor's written consent.

30. Payment for Interior Remodeling; Conditions Precedent. Lessor shall pay to contractors or vendors, not more frequently than bi-weekly, the fee or price for services and materials in connection with the remodeling of the interior of the Units previously acquired by Lessor and leased hereunder pursuant to Section 27, subject to satisfaction of the following conditions on each Payment Date:

30.1 Notice. Lessor shall have received from Lessee not less than five business days' prior notice specifying the amount of Remodeling Price (as defined below) to be paid.

30.2 Invoice. Lessor shall have received an invoice from the contractor or vendor, countersigned by Lessee, specifying the amount payable, provided that each invoice when aggregated with all invoices previously submitted to and paid by Lessor in connection with the remodeling of the interior of all the Units (the "Remodeling Price") shall not exceed \$1,080,380 (or such lesser amount if adjusted in accordance with Section 3 hereof), (the "Remodeling Cap"), and provided further that if Lessor should consent to and make payment to the Contractor in excess of the amount set forth in Section 29 hereof pursuant to a Change Order Notice under the Reconstruction Contract, a corresponding reduction in the Remodeling Cap shall be made, if necessary, so that the aggregate of Lessor's Cost for all the Units shall not exceed Lessor's Cap.

31. Effectiveness. This Lease shall become effective on the date on which each of the Lessor and the Lessee shall have executed and delivered a copy hereof (whether the same or different copies).

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease, and Lessee have caused its corporate seal to be affixed hereto, effective as of the day and year first above written.

INDUSTRIE-LEASING AG, Lessor

By *H.P. Hoegger* *J. Heeb*
H.P. Hoegger *J. Heeb*

AMERICAN EUROPEAN EXPRESS,
INC., Lessee

By *W. F. Schum*

Attest:

Linda L. Carpenter

[SEAL]

Official Legalization

Seen for legalization of the foregoing signatures
signed in our presence by

Mr. Hans Peter HOEGGER
who is identified by passport
and

Mr. Jürg HEEB
who is identified by identity-card
and who are entered in the Register of Commerce of the
Canton of Zurich as assistant Managers
with the right to sign jointly by two of

INDUSTRIE-LEASING AG, with registered headoffice in Zurich.

Zurich, this 13th day of January 1989
B No. 25098/101/Le
Fr. 30.--



Notariat Zürich (Altstadt)



APOSTILLE

(Convention de la Haye du 5 octobre 1961)

1. Land: Schweizerische Eidgenossenschaft, Kanton Zürich

Country: Swiss Confederation, Canton of Zurich

Diese öffentliche Urkunde / This public document

2. Ist unterschrieben von

has been signed by

3. In seiner Eigenschaft als

acting in the capacity of

4. Sie ist versehen mit dem Stempel/Siegel des (der) bears the stamp/seal of

Bestätigt/Certified 13. Jan. 1989

5. In/to 8090 Zürich/8090 Zurich

6. am/the

7. durch die Staatskanzlei des Kantons Zürich

by Chancery of State of the Canton of Zurich

8. unter/under Nr. 459/89

9. Stempel/Siegel/Stamp/seal

10. Unterschrift/Signature



R. Viazzoli



SCHEDULE A

Description of Units

<u>Description</u>	<u>Quantity</u>	<u>Lessee's Car Number</u>	<u>Estimated Acquisition Pric</u>
1. 10 Roomette, 6 Bedroom Sleeper, originally iden- tified as Car No. 2613, Plan No. 4167, Lot No. 6864, D.O.M. 1950	1	2	\$27,500
2. 11 Bedroom Sleeper, originally built for the Union Pacific Railroad and iden- tified as their car "Placid Waters."	1	5	\$11,000
3. 11 Bedroom Sleeper, originally built for the Union Pacific Railroad and iden- tified as their car "Placid Bay."	1	6	\$20,000
4. 10 Roomette, 6 Bedroom Sleeper, originally iden- tified as Car No. 7045, the "Opequon."	1	11	\$45,000
		Total	\$103,500

SCHEDULE B

STIPULATED LOSS VALUES

Stipulated Loss Value for any Unit shall be the amount in U.S. dollars, expressed as a percentage of Lessor's Cost for such Unit, set opposite the date set forth below occurring on or next succeeding the date of occurrence of an Event of Loss or of an event of default with respect to such Unit.

<u>Date which is the:</u>	<u>%</u>
Basic Term Commencement Date and any date before	100%
First half-year anniversary of the Basic Term Commencement Date	94%
Second half-year anniversary of the Basic Term Commencement Date	87.6%
Third half-year anniversary of the Basic Term Commencement Date	80.9%
Fourth half-year anniversary of the Basic Term Commencement Date	73.7%
Fifth half-year anniversary of the Basic Term Commencement Date	66%
Sixth half-year anniversary of the Basic Term Commencement Date	57.9%
Seventh half-year anniversary of the Basic Term Commencement Date	49.3%
Eighth half-year anniversary of the Basic Term Commencement	40.1%
Ninth half-year anniversary of the Basic Term Commencement Date	30.4%
Tenth half-year anniversary of the Basic Term Commencement Date	20%

SCHEDULE C

Schedule of Reconstruction Price

<u>Car No.</u>	<u>Reconstruction Price</u>
2	\$ 442,620
5	\$ 281,831
6	\$ 279,631
11	<u>\$ 385,188</u>
Total	\$1,389,270

**FORM OF OPINION OF
COUNSEL TO LESSEE**

(a) The Lessee is a corporation legally incorporated, validly existing and in good standing, under the laws of the State of Delaware, with adequate corporate power to enter into the Lease;

(b) the Lease has been duly authorized, executed and delivered by the Lessee and constitutes a valid, legal and binding agreement of the Lessee, enforceable in accordance with its terms;

(c) the Lease has been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act, and will protect the Lessor's interests in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government is necessary in order to protect the interests of the Lessor in and to the Units;

(d) no approval is required from any public regulatory body with respect to the entering into or performance of the Lease;

(e) the entering into and performance of the Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound, or contravene any provision of law, statute, rule or regulation to which the Lessee is subject or any judgment, decree, franchise, order or permit applicable to the Lessee; and

(f) no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests of the Lessee, has attached or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein; provided, however, that such liens may attach to the rights of the Lessee hereunder in and to the Units.

**FORM OF OPINION OF
COUNSEL TO CONTRACTOR**

(a) The Contractor is a corporation legally incorporated, validly existing and in good standing, under the laws of the State of Illinois, with adequate corporate power to enter into the Reconstruction Contract, and the Consent and Agreement to the Reconstruction Contract Assignment.

(b) The Reconstruction Contract and the Consent and Agreement have been duly authorized, executed and delivered by the Contractor and constitute valid, legal and binding agreements of the Contractor, enforceable in accordance with their respective terms.

EXHIBIT A
to
Lease of Railroad Equipment

RECONSTRUCTION CONTRACT ASSIGNMENT

RECONSTRUCTION CONTRACT ASSIGNMENT, dated as of November 1, 1988 between AMERICAN EUROPEAN EXPRESS, INC., a Delaware corporation (the "Assignor"), and INDUSTRIE-LEASING AG, a Swiss corporation ("Assignee").

W I T N E S S E T H :

WHEREAS, the Assignor and the Contractor (as hereinafter defined) are parties to an Agreement dated as of November 1, 1988 (the "Reconstruction Contract") for the rehabilitation and improvement of the Units (the "Units") of railroad equipment which are being leased by Assignee to Assignor pursuant to a Lease of Railroad Equipment dated as of November 1, 1988 between Assignee and Assignor (the "Lease"); and

WHEREAS, Assignor, on the terms and conditions hereinafter set forth, is willing to assign to the Assignee the Assignor's rights and interests under the Reconstruction Contract, and the Assignee is willing to accept such assignment, as hereinafter set forth; and

WHEREAS, the Assignee intends to lease to the Assignor, and the Assignor intends to lease from the Assignee, the Units pursuant to the Lease; and

WHEREAS, the Contractor is willing to execute and deliver to the Assignee a Consent and Agreement ("Consent and Agreement") to the provisions hereof in substantially the form of Annex A hereto;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. The Assignor has sold, assigned, transferred and set over and does hereby sell, assign, transfer and set over unto the Assignee all the Assignor's rights and

interests in and to the Reconstruction Contract, including, without limitation, in such assignment (a) the right upon valid tender by the Contractor to accept delivery of the Units, such acceptance to be exercised by an authorized representative of the Assignee, who shall be an employee of the Assignor, (b) all claims for damages in respect of the Units arising as a result of any default by the Contractor under the Reconstruction Contract, including, without limitation, all warranty and indemnity provisions in the Reconstruction Contract and all claims arising thereunder, (c) the right to any insurance proceeds payable to the Assignor pursuant to any insurance policy required to be in effect under Section 8 of the Reconstruction Contract, (d) the right to terminate the Reconstruction Contract or issue a Stop Order pursuant to Section 12 and Section 13, respectively, of the Reconstruction Contract and (e) any and all rights of the Assignor to compel performance of the terms of the Reconstruction Contract.

Notwithstanding the foregoing, if and only so long as the Lease shall not have been declared to be in default (and if such declaration has been made, only after such time as such declaration shall no longer be continuing), the Assignee authorizes the Assignor, to the exclusion of the Assignee, to exercise in the Assignor's name all rights and powers of the "Owner" under the Reconstruction Contract including the right to enforce any warranty or indemnity under the Reconstruction Contract and the right to retain any recovery or benefit resulting from the enforcement of any such warranty or indemnity or resulting from any refund, damages or other claims under the Reconstruction Contract except that (a) the Assignor may not exercise any of the rights assigned hereunder referred to in clause (a) of the preceding paragraph, (b) the Assignor may not enter into any change order, including, without limitation, a Change Order Notice in the form of Exhibit C attached to the Reconstruction Contract, or other amendment, modification or supplement to the Reconstruction Contract without the written consent or countersignature of the Assignee and (c) the Assignee shall have the right to terminate the Reconstruction Contract or issue a Stop Order pursuant to Section 12 and Section 13, respectively, of the Reconstruction Contract whether or not the Lease has been declared to be in default. Without limiting the foregoing, the Contractor may treat the Assignor as "Owner" (and no event of default on the Lease or cure of default shall affect Contractor) until Contractor receives written notice from Assignee that the Lease has been declared to be in default (or as the case may be, that such default is no longer continuing).

2. It is expressly agreed that, anything herein contained to the contrary notwithstanding: (a) the Assignor shall at all times remain liable to the Contractor under the Reconstruction Contract to perform all the duties and obligations of the "Owner" thereunder to the same extent as if this Assignment had not been executed; (b) the exercise by the Assignee of any of the rights assigned hereunder shall not release the Assignor from any of its duties or obligations to the Contractor under the Reconstruction Contract except to the extent that such exercise by the Assignee shall constitute performance of such duties and obligations; and (c) except as provided in the next succeeding paragraph and in the Consent and Agreement, the Assignee shall not have any obligation or liability under the Reconstruction Contract or to make any payment (other than to pay the Contract Price to the extent and upon the terms and conditions set forth in Section 29 of the Lease).

Anything contained in this Assignment or the attached Consent and Agreement to the contrary notwithstanding, but without in any way releasing the Assignor from any of its duties or obligations under the Reconstruction Contract or this Assignment, the Assignee confirms for the benefit of the Contractor that the terms and conditions of the Reconstruction Contract shall apply to, and be binding upon, the Assignee to the same extent as the Assignor.

Nothing contained in this Assignment shall in any way diminish or limit the provisions of the Assignor's indemnities in Section 9 of the Lease with respect to any liability of the Assignee to the Contractor in any way relating to or arising out of the Reconstruction Contract. Nothing contained herein shall subject the Contractor to any liability to which it would not otherwise be subject under the Reconstruction Contract or modify in any respect the contract rights of the Contractor thereunder (except as provided in the attached Consent and Agreement).

3. The Assignee agrees, subject to the satisfaction or waiver of the conditions set forth in Section 29 of the Lease, to pay to the Contractor the periodic installments of Contract Price due in accordance with the Reconstruction Contract.

The Assignee hereby confirms that it shall be deemed for all purposes to have read and be familiar with the Reconstruction Contract.

4. The Assignor represents and warrants that the Reconstruction Contract is in full force and effect and is enforceable in accordance with its terms and the Assignor is not in default thereunder. The Assignor does hereby further represent and warrant that the Assignor has not assigned or pledged, and hereby covenants that it will not assign or pledge, so long as this Assignment shall remain in effect, the whole or any part of the rights hereby assigned or any of its rights under the Reconstruction Contract not assigned hereby, to anyone other than the Assignee.

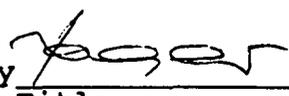
5. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns, provided, however, rights and obligations under the Reconstruction Contract cannot be assigned without the prior written consent of the Contractor, the Assignor and the Assignee.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be duly executed as of the day and year first above written.

AMERICAN EUROPEAN EXPRESS,
INC.

By 
Title:

INDUSTRIE-LEASING AG

By  
Title:

H.P. Hoegge *J. Heeb*
First Vice-President *Vice President*

ANNEX A
to
Reconstruction Contract Assignment

CONSENT AND AGREEMENT

The undersigned, KASTEN RAILCAR SERVICES, INC., hereby acknowledges notice of and consents to all of the terms of the Reconstruction Contract Assignment (the "Assignment", the defined terms therein being hereinafter used with the same meanings) and hereby confirms to the Assignee that:

(i) the Assignee shall not be liable for any of the obligations or duties of the Assignor under the Reconstruction Contract, nor shall the Assignment give rise to any duties or obligations whatsoever on the part of the Assignee owing to the Contractor, except as provided in Paragraph 3 of the Assignment or paragraph (iii) of this Consent and Agreement;

(ii) the Contractor will continue to pay to the Assignor all payments which the Contractor may be required to make in respect of the Units under the Reconstruction Contract unless and until the Contractor shall have received written notice addressed to Kasten Railcar Services, Inc., 214 Brown Street, Edwardsville, Illinois 72025, Attention: Les M. Kasten, President, stating that the Lease has been declared to be in default, whereupon the Contractor will, until the Assignee shall have notified the Contractor in writing that no Event of Default is continuing under the Lease, make any and all such payments, the right to receive which has been assigned under the Assignment to the Assignee, at such address as the Assignee may specify unless and until the Contractor shall have received notice addressed as aforesaid, that no Event of Default is continuing under the Lease, whereupon the Contractor will make all such payments which the Contractor may be required to make thereafter under the Reconstruction Contract to the Assignor; and

(iii) if an Event of Default under the Lease shall have occurred and be continuing, Contractor shall, upon

written notice and direction from Assignee, deliver all the Units in Contractor's possession to Assignee (provided that, prior to the delivery of the Units, Assignee shall pay the Contractor all amounts properly due and owing to the Contractor under the Reconstruction Contract to the extent such amounts when aggregated with all other amounts previously paid to Contractor by Assignee pursuant to Section 29 of the Lease does not exceed Lessor's Cap (as defined in the Lease) as adjusted by any Change Orders approved by the Assignee; for the purpose of this paragraph, the unapplied balance of the downpayment then held by the Contractor, if any, shall be applied toward the amount due and owing to the Contractor and Assignee shall pay only the deficiency, if any) and any and all amounts due and owing to the Contractor under the Reconstruction Contract not paid by the Assignee pursuant to the preceding provisions of this sentence shall be payable solely by the Assignor and the Contractor shall only have recourse against the Assignor. Upon such notice of Event of Default, Assignee shall be subrogated to all rights against the Contractor which Assignor has or would have pursuant to the Reconstruction Contract.

The Contractor hereby represents and warrants that the Reconstruction Contract constitutes as of the date thereof and at all times thereafter to and including the date of this Consent and Agreement a binding obligation of the Contractor and this Consent and Agreement constitutes a legal, valid and binding obligation of the Contractor.

KASTEN RAILCAR SERVICES, INC.

By _____
Title:

Dated as of November 1, 1988