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JOHN K. MASER III
EDWARD J. TWOMEY
NICHOLAS J. DIMICHAEL

JOHN F. DONELAN, JR.
JADE ALICE EATON
RICHARD D. FORTIN

RECORDATION NO. 9792-D Filed & Recorded

NOV 6 1986 1:50 PM

INTERSTATE COMMERCE COMMISSION

November 6, 1986

6-310A082

No.

Date NOV 6 1986

Fee $ 10.00

ICC Washington, D.C.

The Honorable Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Secretary McGee:

Enclosed for recordation, under the provisions of 49 U.S.C. §11303(a) and the regulations thereunder, are the original and one certified true copy of Locomotive Sublease Agreement between Kennecott Corporation ("Lessor") and BC Rail Ltd. ("Lessee"), dated as of October 22, 1986, relating to the Equipment Lease between First Security Bank of Utah, N.A. and Thomas Cuthbert, not in their individual capacities, but solely as trustees under a Trust Agreement dated as of September 1, 1978 between them and the Beneficial Owners therein named, as Lessor, and Kennecott Copper Corporation (former name of Kennecott Corporation) as Lessee, a primary document, dated as of September 1, 1978 and recorded under Recordation No. 9792.

It is my understanding that the recordation number to be assigned to the enclosed Locomotive Sublease Agreement, as described in the preceding paragraph, will be: 9792-D.

The names and addresses of the parties to the enclosed Locomotive Sublease Agreement are as follows:

LESSOR: Kennecott Corporation
P.O. Box 11248
Salt Lake City, UT 84147

LESSEE: BC Rail Ltd.
P.O. Box 8770
Vancouver, British Columbia
Canada V6B-4X6

A general description of the railroad locomotives covered by the enclosed document is attached hereto as Schedule 1.

The undersigned is the attorney-in-fact of Kennecott Corporation. Please return the original of the enclosed document to John K. Maser III, Esq., Donelan, Cleary, Wood & Maser, P.C., Suite 850, 1275 K Street, N.W., Washington, D.C. 20005-4006 or to the bearer hereto.

Also enclosed is a remittance in the amount of $10.00 for the required recording fee.

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

SECONDARY DOCUMENT

> Locomotive Sublease Agreement between Kennecott Corporation ("Lessor") and BC Rail Ltd. ("Lessee"), dated as of October 22, 1986, relating to the Equipment Lease between First Security Bank of Utah, N.A. and Thomas Cuthbert, not in their individual capacities, but solely as trustees under a Trust Agreement dated as of September 1, 1978 between them and the Beneficial Owners therein named, as Lessor, and Kennecott Copper Corporation (former name of Kennecott Corporation) as Lessee, dated as of September 1, 1978, relating to seven General Motors (Electro Motive Division) SD 40-2, 3000 H.P. Diesel Electric Locomotives bearing Kennecott unit numbers as follows: KCC 101, KCC 102, KCC 103, KCC 104, KCC 105, KCC 106, and KCC 107.

Finally, it is noted that the Locomotive Sublease Agreement to be recorded under Recordation No. 9792-D contains the following, attached and incorporated exhibits:

> (1) Consent to Sublease and Waiver of Covenant Agreement, dated as of September 30, 1986, between Kennecott Corporation, Crocker National Bank and First Security Bank of Utah, N.A. (as Beneficiaries) and First Security Bank of Utah,

N.A., and Thomas C. Cuthbert, not in their individual capacities, but solely as trustees under a Trust Agreement dated as of September 1, 1978, between them and the beneficial owners therein named,

(2) Equipment Lease, dated as of September 1, 1978, as earlier described, and

(3) Trust Agreement, dated as of September 1, 1978, as earlier described.

Sincerely yours,

JOHN K. MASER III

:jmw
376
Enclosure

SCHEDULE 1

## Description of Locomotives

Seven General Motors (Electro Motive Division) SD 40-2 3000 H.P. Diesel Electric Locomotives bearing Kennecott unit numbers as follows:

KCC 101
KCC 102
KCC 103
KCC 104
KCC 105
KCC 106
KCC 107

# Interstate Commerce Commission
Washington, D.C. 20423

11/6/86

OFFICE OF THE SECRETARY

John K.Maser III
Donelan,Cleary,Wood & Maser,P.C.
Suite 850 1275 K. St. N.W.
Washington,D.C. 20005

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 11/6/86 at 1:50pm , and assigned re-recordation number(s). 9792-D

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 9792-D Filed & Recorded

NOV 6 1986 1-50 PM

INTERSTATE COMMERCE COMMISSION

# LOCOMOTIVE SUBLEASE AGREEMENT

THIS SUBLEASE made and entered into as of this 22nd day of October 1986 by and between Kennecott Corporation, a New York corporation, hereinafter called "Lessor," and BC RAIL LTD. a Canadian corporation, hereinafter called "Lessee."

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. Original Lease: Lessor herein is the Lessee of a certain Equipment Lease, dated September 1, 1978, by and between First Security Bank of Utah, N.A. and Thomas Cuthbert, not in their individual capacities, but solely as trustees under a Trust Agreement dated as of September 1, 1978 between them and the Beneficial Owners therein named, as Lessor, hereinafter called "Equipment Lease Lessor" and Kennecott Copper Corporation (former name of Kennecott Corporation) as Lessee, hereinafter called "Equipment Lease Lessee," a copy of which Equipment Lease is attached hereto and incorporated herein by this reference. Said Equipment Lease, leases from Equipment Lease Lessor to Equipment Lease Lessee, among other equipment set forth therein, the Locomotives described in the Equipment Schedule Number One attached hereto.

2. Lease: Lessee agrees to lease from Lessor the Locomotives described in Equipment Schedule Number One attached hereto, "as is," together with all replacement parts, additions, repairs and accessories incorporated therein, and/or affixed thereto (the "Locomotives"), upon the terms and conditions herein set forth. This Lease shall be binding only on Locomotives described in Equipment Schedule One duly signed by both Lessor and Lessee. All Locomotives presently bear Kennecott reporting marks. The Lessee may stencil its name on the units so long as it removes same upon expiration of this Lease.

3. Original Lease Covenants: Lessee agrees to be subject to and to observe the terms and conditions to be performed by Lessor as Equipment Lease Lessee of the Equipment Lease so far as such terms and conditions apply to the Locomotives herein, but excluding the covenant for payment of rent as set forth in the Equipment Lease. In addition to the requirements of the above sentence and the general terms and conditions set forth herein, Lessee agrees to the following specific terms and conditions:

(a) The rights of Lessee herein are subject and subordinate to the rights of the Equipment Lease Lessor and any security assignee of the Equipment Lease Lessor as provided in Paragraph 14 of the Equipment Lease.

(b) Lessee shall file financing statements, as required by the Equipment Lease Lessor of the Equipment Lease.

(c) Lessee agrees, upon request of Lessor, to keep Lessor informed of the location of the Locomotives, including the specific trackage on which the Locomotives are to be used, and of any anticipated changes of location.

(d) Lessee consents to be subject to the jurisdiction of the courts of the State of Utah in any lawsuit involving the enforcement of Equipment Lease and/or the Locomotives Lease Agreement.

(e) Lessee shall be subject to approval by Equipment Lease Lessor of the following items:

1) Lessee's financial and credit condition and history;

2) Lessee's general business reputation;

3) Lessee's intended usage of the Equipment; and

4) Any other information which the Equipment Lease Lessor may reasonably request.

4. Rental: Rental will be payable in respect of each of the Locomotives commencing on the date of this Sublease Agreement, which date is hereinafter referred to as the "Rental Commencement Date." The daily rental shall be $300.00 (U.S.) per Locomotive, payable monthly.

Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff, counterclaim, recoupment or defense against rent or any other amount payable hereunder for any reasons whatsoever, including, but not limited to, abatements, reductions, setoffs, counterclaims, recoupments or defenses due or alleged to be due by reason of any past, present or future claims of Lessee against Lessor or any other person for any reason whatsoever, except as otherwise provided herein; nor shall this Agreement terminate or the obligations of Lessee be otherwise affected by reason of any defect in the condition, design, operation or fitness for use of any Locomotive or damage to or loss of possession or use or destruction of all or any of such Locomotives from whatever cause and of whatever duration, except as otherwise provided herein. Lessee will settle all claims, defenses, setoffs and counterclaims it may have of any nature against the Locomotive manufacturer, including but not limited to defects in the Locomotives and like claims, directly with the Locomotive manufacturer and not set up any such claim, defense, setoff or counterclaim against Lessor or its assigns. Lessee acknowledges that: Lessor is in no way connected to the Locomotive manufacturer; Lessor has no knowledge or information as to the condition or suitability for Lessee's purpose of the Locomotives; and Lessor's decision to enter into this Lease is made in reliance on Lessee's undertakings herein, including Lessee's express agreement not to assert against Lessor any claims, defenses, setoffs or counterclaims it may now or hereafter have against the Locomotive manufacturer.

5. Term: The Term shall be ninety (90) days from the Rental Commencement Date. Lessee shall provide Lessor with 30 days' written notice of a request to extend the Term for a period of time to be agreed upon by the Parties.

6. Warranties and Representations: LESSOR MAKES NO REPRESENTATIONS OR WARRANTIES, OF ANY KIND RESPECTING THE LOCOMOTIVES, WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, AND LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, NOR SHALL IT BE DEEMED BY VIRTUE OF HAVING LEASED THE LOCOMOTIVES, PURSUANT TO THIS AGREEMENT TO HAVE MADE ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE WORKMANSHIP IN, THE LOCOMOTIVES, ALL OF WHICH ARE EXPRESSLY DISCLAIMED AND LESSOR SHALL NOT BE LIABLE, IN CONTRACT, TORT OR OTHERWISE, ON ACCOUNT OF ANY DEFECT, WHETHER HIDDEN, LATENT OR OTHERWISE DISCOVERABLE OR NONDISCOVERABLE RESPECTING ANY LOCOMOTIVES. Lessee accordingly agrees not to assert any claim whatsoever against Lessor based thereon. Lessee further agrees, regardless of cause, not to assert any claim whatsoever against Lessor for loss of anticipatory profits or consequential damages.

7. Place of Payment of Rent: Lessee shall direct payment of the monthly rent to the following address:

Kennecott Corporation
Utah Copper Division
P. O. Box 525
Salt Lake City, Utah 84006-0525
Attention: Controller

8. Recordkeeping; Inspection: Lessee agrees to keep and maintain and make available to Lessor such record of Lessee's use, operation, inspection, repairs and maintenance of each Locomotive while in its possession as shall be reasonably required by Lessor. Lessor, by such agent or agents as it may designate, shall have the right at all reasonable times to go upon the property of Lessee to inspect any Locomotive while in the possession of Lessee.

9. Loss or Destruction: Lessee agrees it will be solely responsible for any loss, damage or destruction of any Locomotive leased to it by Lessor after placing in service and while subject to this Lease. In case any of the Locomotives during the term of the Lease period become lost, destroyed or damaged beyond repair from any cause whatsoever, rental with respect to any such Locomotive shall cease immediately, but in such case Lessee agrees to pay Lessor the sum of $525,000 (U.S.) per Locomotive within thirty (30) days of the event.

10. Liability Insurance: At its own expense, Lessee shall maintain the following insurance, or, at its option, self insure, with respect to each Item of Leased Equipment: Comprehensive General Liability Insurance with limits of at least $500,000 bodily injury, including death, and $500,000/500,000 property damage. Any policies with respect to such insurance shall (1) be with an insurance carrier acceptable to the Lessor and that Lessor's acceptance of any carrier designated by Lessee will not be unreasonably withheld, (2) name the Lessor and the Lessee as assureds, as their interests may appear, and (3) provide for at least 30 days' prior written notice by the insurance carrier to the Lessor in the event of cancellation, expiration or material modification. The Lessee shall, prior to the First Delivery Date and annually thereafter of the anniversary thereof, furnish appropriate evidence of such insurance.

Effecting or obtaining any insurance coverage required to be carried pursuant to the above does not excuse or relieve Lessee from the due performance and fulfillment of any of its obligations hereunder.

11. Indemnity: Lessee agrees that Lessor shall not be liable to Lessee for, and Lessee shall indemnify and save Lessor harmless from and against any judgments arising from or caused directly or indirectly by: (a) Lessee's failure to promptly perform any of its obligations under the provisions of Sections 4, 8, 10 and 20 of this Lease, or (b) injury to person or property resulting from or based upon the actual or alleged use, operation, delivery or transportation of any or all of the Locomotives or its location or condition, or (c) except as provided in the second paragraph of Section 15 below, inadequacy of the Locomotives, or any part thereof, 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; and shall, at its own cost and expense, defend any and all suits which may be brought against Lessor, either alone or in conjunction with others upon any such liability or claim or claims and shall satisfy, pay and discharge any and all judgments and fines that may be recovered against Lessor in any such action or actions, provided, however, that Lessor shall give Lessee written notice of any such claim or demand. This indemnity shall survive the expiration or termination of this Lease.

12. Storage: Upon expiration or termination of this Lease, the Lessee agrees to provide storage for up to ninety (90) days at no expense to Lessor. Lessee will not be liable for any damages, destruction or casualty to any of the Locomotives while located on storage track or tracks unless such be fully caused by the sole negligence or willful misconduct of B.C. Rail or its employees. Either during or at expiration of this storage period, Lessee will transport the Locomotives at no expense or risk to Lessor to a BC Rail interchange point designated by Lessor. The Locomotives shall be returned to Lessor in good operating condition, as specified in Sections 11 and 15, normal wear and tear excepted and free and clear of all mortgages, liens, security interests, charges, claims, other encumbrances, other than liens created or granted by Lessor or Lessee's Lessor.

13. Assignment: Lessee shall not assign or sublet its interest, or any part thereof, under this Lease, or permit the use or operation of any Locomotive subject to this Lease by any other persons, firm or corporation, other than wholly-owned subsidiaries, without the prior written consent of Lessor. Lessor expressly consents to incidental operation and use on railroads other than Lessee's under standard run-through and power pooling arrangements. Lessor may at any time assign all or any portion of the rents due or to become due, and/or the leased property without notice to Lessee and in such event Lessor's transferee as assignee shall have all the rights, powers, privileges and remedies of the Lessor hereunder. Lessee shall have no obligation to pay any assignee, and shall continue to pay Lessor, until such time as notice of such assignment is given to Lessee in accordance with Section 14.

14. Notice: Unless otherwise specifically provided, any notices to be given under this Lease or any other communications between the parties shall be given by certified mail, postage prepaid, in the following manner:

(a) Notices from Lessor to Lessee shall be sent to:

BC Rail
P. O. Box 8770
Vancouver, British Columbia
V6B-4X6
Attention: Mr. Barry McIntosh

or to such other address as Lessee may from time to time indicate by written notice to Lessor.

(b) Notices from Lessee to Lessor shall be sent to:

Kennecott Corporation
Utah Copper Division
P. O. Box 525
Bingham Canyon, Utah 84006-0525
Attention: Controller

With a copy to:

Kennecott Corporation
P. O. Box 11248
Salt Lake City, Utah 84147
Attention: Law Department

or to such other address as Lessor may from time to time indicate by written notice to Lessee.

15. Compliance with Law; Repair and Maintenance: Lessee shall comply with the Canadian Transport Commission rules and regulations and all other applicable governmental laws, regulations and requirements and other binding regulations with respect to use, maintenance and operation of the Locomotives during the Lease period.

The Lessee shall use the Locomotives only in the manner for which designed and intended and so as to subject them only to ordinary wear and tear. Lessee shall, at its own cost and expense, maintain and keep the Locomotives in good order, condition and repair, ordinary wear and tear excepted. Any parts installed or replacements made by Lessee upon the Locomotives shall be considered accessions to the Locomotives and title thereto shall be immediately vested in Lessor, without cost or expense to Lessor. Lessee may install parts indigenous to Canadian service such as ditch lights, radio base and head and toilets and remove same at lease expiration. Lessee will not permit any liens or encumbrances to be placed in the Locomotives and will promptly take action, at its expense, to remove and discharge any liens that may be placed on the Locomotives.

16. Quiet Enjoyment: So long as Lessee makes its aforesaid rental payments and otherwise complies with the terms and provisions hereof, Lessee shall be entitled to the use and possession of the Locomotives according to the terms hereof without interference by the Lessor or by any party lawfully claiming by or through the Lessor.

17. Authority: The undersigned signatories herewith represent and warrant that they are fully authorized to execute this Lease and bind the respective parties to the terms and provisions hereof. Lessor will pay all commissions and fees to Helm Financial Corporation, who has been retained in connection with this transaction, and will hold Lessee harmless for any such fees or commissions.

18. Late Charges: Delinquent installments of rent shall bear interest at the rate of 1-1/2 percent per month if not prohibited by law, otherwise at the highest lawful contract rate.

19. Filing and Administration: Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver and return to Lessor any and all further instruments required by law or reasonably requested by Lessor, for the purpose of protecting Lessor's title to the locomotives to the satisfaction of Lessor's Counsel or for the purpose of carrying out the intention of this Lease. Provided however, that the Lessee shall not be required to take any steps or execute any documents which may result or have the effect of Lessee acknowledging submitting to any jurisdiction under the Railway Act of Canada. Lessor will register, record or file, as the case may be, this Lease with appropriate officials in the U.S.A. and Canada.

20. Taxes/Duty: Lessee, or Lessor at Lessee's expense, shall report, pay and discharge when due all license and registration fees, Canadian withholding tax, assessments, sales (but only as it relates to a sale to Lessee), use and property taxes, gross receipts taxes arising out of receipts from use or operation of Locomotives including without limitation amounts payable under Section 4, 8 and 12 hereof and other taxes (excluding any tax measured by Lessor's net income), together with any penalties or interest thereon, imposed by any state, federal or local government upon the Locomotives and whether or not the same shall be assessed against or in the name of Lessor or Lessee. All such taxes and duties are for the account of Lessee.

21. Default: If the Lessee after five (5) business days' notice shall fail to carry out and perform any of the obligations on its part to be performed under this Agreement, or if a petition, in bankruptcy, for reorganization, for a Trustee, or for a Receiver, shall be filed by or against the Lessee, then, and in any of said events, Lessor shall have all rights available to it at law or in equity, including without limitation the right, immediately to repossess the Locomotives, to remove the Locomotives from Lessee's service, to terminate this Agreement, and recover any and all damages sustained as a result of Lessee's default. If Lessor shall terminate this Agreement pursuant to this section, Lessee shall remain liable for all unpaid rent and other amounts due hereunder. The rights and remedies herein given or provided by law or in equity.

Should any proceedings be instituted by Lessor for monies due to Lessor hereunder and/or for possession of any or all of the Locomotives or for any other relief, Lessee shall pay Lessor a reasonable sum as attorney's fees. In addition to any remedies provided herein, Lessor shall have all the rights provided to a Lessor under Section 1168 of Title 11 of the United States Code and any successor provision thereto.

22. Miscellaneous: All transportation charges for delivery of the locomotives to the Lessee shall be borne by Lessor. If any part hereof is contrary to, prohibited by or deemed invalid under applicable laws or regulations of any jurisdiction, such provision shall be inapplicable and deemed omitted but shall not invalidate the remaining provisions hereof. Lessee admits the receipt of a true copy of this Locomotive Lease Agreement. Lessor will reimburse Lessee for the fuel remaining in each Locomotive at Lease termination at Lessee's prevailing fuel rate.

BC RAIL, LTD.

ATTEST: _____ By _____

Title President and Chief Executive Officer

KENNECOTT CORPORATION, LESSOR

ATTEST: _____ By _____

Assistant Secretary

Title Vice President

LOCO:MO1

EQUIPMENT SCHEDULE NUMBER ONE

Locomotive Description: General Motors (Electro Motive Division) SD 40-2, 3000 H.P. Diesel Electric Locomotives.

The Kennecott locomotives numbers are as follows:

| Unit Number |
|---|
| KCC 101 |
| KCC 102 |
| KCC 103 |
| KCC 104 |
| KCC 105 |
| KCC 106 |
| KCC 107 |

BC RAIL, LTD.

By: _____

Title: President and Chief Executive Officer

Date: October 22, 1986

KENNECOTT CORPORATION, LESSOR

By: _____

Title: Vice President

Date: October 24, 1986

EXHIBIT A

Prior to Delivery

1. Installation of ditch lights
2. Installation of FRA glass
3. Air brakes to be certified

Exhibit No. 1

CONSENT TO SUBLEASE AND WAIVER OF COVENANT AGREEMENT

This Agreement made and entered into as of the 30th day of September, 1986, by and between Kennecott Corporation (formerly known as Kennecott Copper Corporation), hereinafter called "Kennecott," Crocker National BAnk and First Security Bank of Utah, N.A., hereinafter called "Beneficiaries," and First Security Bank of Utah, N. A. and Thomas C. Cuthbert, hereinafter called "Trustees," not in their individual capacities, but solely as trustees under a Trust Agreement dated as of September 1, 1978, between them and the Beneficial owners therein named (which Beneficial owners are the same parties as the "Beneficiaries" herein).

1. Effective as of September 1, 1978, Trustees entered into an Equipment Lease Agreement with Kennecott for the purpose of leasing to Kennecott certain Leased Equipment as defined therein.

2. Section 14 of the Equipment Lease Agreement provides, among other things, that Kennecott will not sublet or otherwise relinquish possession of any of the Leased Equipment, or assign any of its rights thereunder, to another party, without the prior written consent of Trustees, and, that items of Leased Equipment to be subleased will not be located or used outside the geographical limits of the continental United States of America.

3. Kennecott hereby requests that the Trustees grant consent for Kennecott to sublease those items of the Leased Equipment, as set forth in Exhibit A attached hereto, to BC Rail, Ltd., a Canadian corporation, and that the Trustees waive that portion of Section 14 of the Equipment Lease which does not permit any of the Leased Equipment to be located and used outside the geographical limits of the United States of America.

4. Trustees are willing, upon receipt of approval from the Beneficiaries, to consent to the sublease and waive that portion of Section 14 of the Equipment Lease, which does not permit any of the Leased Equipment to be located and used outside the geographical limits of the United States of America.

5. Beneficiaries are willing to consent to the sublease and waive that portion of Section 14 of the Equipment Lease which does not permit any of the Leased Equipment to be located and used outside the geographical limits of the United States, upon acknowledgment and agreement of Kennecott that such sublease and location and use of such Leased Equipment outside the geographical limits of the United States of America will not discharge or diminish any of Kennecott's obligations to Trustees as set forth in the Equipment Lease Agreement.

6. Kennecott agrees that, except for that portion of Section 14 of the Equipment Lease as expressly waived herein, none of its obligations to

FIRST SECURITY BANK OF UTAH, N.A., as Beneficiary

By _____
Authorized Officer

Date: _____

FIRST SECURITY BANK OF UTAH, N.A., AND THOMAS C. CUTHBERT, NOT IN THEIR INDIVIDUAL CAPACITIES, BUT SOLELY AS TRUSTEES UNDER A TRUST AGREEMENT DATED AS OF SEPTEMBER 1, 1978, BETWEEN THEM AND THE BENEFICIARIES HEREIN

By _____
Authorized Officer

Date: _____

Consented and Agreed to:

U.S. TRUST CO. OF NEW YORK,
as Trustee

By Louis Py
Authorized Officer

Date: 10-6-86

AETNA LIFE INSURANCE CO.,
Lender under the Trust Agreement
dated as of September 1, 1978.

By _____
Authorized Officer

Date: _____

CONSENT:MO1

FIRST SECURITY BANK OF UTAH, N.A., as Beneficiary

By _____
Authorized Officer

Date: _____

FIRST SECURITY BANK OF UTAH, N.A., AND THOMAS C. CUTHBERT, NOT IN THEIR INDIVIDUAL CAPACITIES, BUT SOLELY AS TRUSTEES UNDER A TRUST AGREEMENT DATED AS OF SEPTEMBER 1, 1978, BETWEEN THEM AND THE BENEFICIARIES HEREIN

By _____
Authorized Officer

Date: _____

Consented and Agreed to:

U.S. TRUST CO. OF NEW YORK,
as Trustee

By _____
Authorized Officer

Date: _____

AETNA LIFE INSURANCE CO.,
Lender under the Trust Agreement
dated as of September 1, 1978.

By Sandra Alex
Authorized Officer

Date: Oct. 3, 1986

FIRST SECURITY BANK OF UTAH, N.A., as Beneficiary

By _____
Authorized Officer

Date: 10-6-86

FIRST SECURITY BANK OF UTAH, N.A., AND THOMAS C. CUTHBERT, NOT IN THEIR INDIVIDUAL CAPACITIES, BUT SOLELY AS TRUSTEES UNDER A TRUST AGREEMENT DATED AS OF SEPTEMBER 1, 1978, BETWEEN THEM AND THE BENEFICIARIES HEREIN

By _____
Authorized Officer

Date: 10-6-86

Consented and Agreed to:

U.S. TRUST CO. OF NEW YORK,
as Trustee

By _____
Authorized Officer

Date: _____

AETNA LIFE INSURANCE CO.,
Lender under the Trust Agreement
dated as of September 1, 1978.

By _____
Authorized Officer

Date: _____

EXHIBIT A

Seven General Motors (Electro Motive Division) SD 40-2, 3000 H.P. Diesel Electric Locomotives bearing Kennecott unit numbers as follows:

KCC 101

KCC 102

KCC 103

KCC 104

KCC 105

KCC 106

KCC 107

Exhibit No. 2

THE RIGHTS OF THE LESSOR UNDER THIS EQUIPMENT LEASE AND IN ALL EQUIPMENT COVERED HEREBY HAVE BEEN ASSIGNED TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR OF, UNITED STATES TRUST COMPANY OF NEW YORK, AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF NOVEMBER 1, 1977, AS AMENDED AND AND SUPPLEMENTED. THIS EQUIPMENT LEASE HAS BEEN EXECUTED IN COUNTERPARTS. SEE SECTION 25(g) HEREOF FOR INFORMATION CONCERNING THE RIGHTS OF HOLDERS OF THE VARIOUS COUNTERPARTS.

---

# EQUIPMENT LEASE

Dated as of September 1, 1978

between

FIRST SECURITY BANK OF UTAH, N.A. and THOMAS C. CUTHBERT,
not in their individual capacities, but
solely as trustees under a
Trust Agreement
dated as of September 1, 1978
between them and the Beneficial Owners therein named,
as Lessor

and

KENNECOTT COPPER CORPORATION,
as Lessee

EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of September 1, 1978 (the Lease) between FIRST SECURITY BANK OF UTAH, N.A., a national banking association (the Corporate Trustee), and THOMAS C. CUTHBERT (the Individual Trustee), not in their individual capacities, but solely as trustees (the Lessor) under a Trust Agreement dated as of the date hereof (the Trust Agreement) between them and the Beneficial Owners therein named, and the entity named as Lessee on the signature page hereof (the Lessee).

W I T N E S S E T H :

SECTION 1. Definitions; Construction of References.

In this Lease, unless the context otherwise requires:

(a) All references in this Lease to designated Sections and other subdivisions are to designated Sections and other subdivisions of this Lease, and the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Section or other subdivision.

(b) The terms defined in this Section 1 or elsewhere in this Lease shall, for purposes of this Lease and all Exhibits hereto, have the meanings assigned to them in this Section 1 or elsewhere and include the plural as well as the singular.

(c) Except as otherwise indicated, all the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof.

(d) The following terms shall have the following meanings for all purposes of this Lease:

Abatements shall have the meaning set forth in Section 7 hereof.

Appraisal shall mean a procedure whereby two independent appraisers, neither of whom shall be a manufacturer of the Item of Leased Equipment for which appraisal is required, one chosen by the Lessee and one by the Lessor, shall mutually agree upon the amount in question. The Lessor or the Lessee, as the case may be, shall deliver a written notice to the other party appointing its appraiser within 15 days after receipt from the other party of a written notice appointing that party's appraiser.

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If within 15 days after appointment of the two appraisers, as described above, the two appraisers are unable to agree upon the amount in question, a third independent appraiser, who shall not be a manufacturer of such Item of Leased Equipment, shall be chosen within five days thereafter by the mutual consent of such first two appraisers or, if such first two appraisers fail to agree upon the appointment of a third appraiser, such appointment shall be made by an authorized representative of the American Arbitration Association or any organization successor thereto. The decision of the third appraiser so appointed and chosen shall be given within 10 days after the selection of such third appraiser and, upon receipt of such decision, the amount in question shall be definitively determined by averaging the respective decisions of all three appraisers and, thereafter such amount shall be binding and conclusive on the Lessor and the Lessee. The Lessor and the Lessee shall pay the fees and expenses of the respective appraisers appointed by them. The fees and expenses of the third appraiser, if any, shall be equally divided between Lessee and Lessor.

Basic Rent, Supplemental Rent and Rent shall have the meanings set forth in Section 3 hereof.

Beneficiary, Rent Commencement Date, Late Payment Rate, Basic Rent Dates, First Delivery Date, Final Delivery Date, Interim Rent Date, First Basic Rent Date, Last Basic Rent Date, Expiration Date, Basic Lease Rate Factor, Daily Lease Rate Factor, Lease Extension Periods, Equipment Marking, Return of Equipment, and Net Salvage Value shall have the meanings with respect to a Group of Equipment set forth in Exhibit C hereto, if, and to the extent, such terms are applicable to this Lease.

Business Day shall have the meaning set forth in the Participation Agreement.

Casualty Value and, if, and to the extent, such term is applicable to this Lease, Termination Value shall have the meanings with respect to each Group of Equipment set forth in Exhibit D hereto.

Certificates shall mean those equipment trust certificates issued under the Indenture in connection with the purchase of Leased Equipment.

Certificate of Acceptance shall mean a certificate of acceptance substantially in the form of Exhibit B hereto.

Claims shall have the meaning set forth in Section 13 hereof.

Closing Date shall have the meaning set forth in the Participation Agreement.

Code shall have the meaning set forth in Section 15 hereof.

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

Depreciation Deduction, Interest Deduction and Investment Credit shall have the meanings set forth in Section 15 hereof.

Equipment, and individually an Item or Item of Equipment, shall mean the items of equipment described in Exhibit A hereto.

Event of Default shall have the meaning set forth in Section 17 hereof.

Event of Loss shall have the meaning set forth in Section 11 hereof.

Fair Market Rental Value of an Item of Leased Equipment shall be determined on the basis of, and shall mean the amount which would be obtainable in, an arm's-length lease transaction between an informed and willing lessee (other than a lessee currently in possession) under no compulsion to lease and an informed and willing lessor under no compulsion to lease, in accordance with a lease on terms and conditions as herein provided. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Rental Value with respect to an Item of Leased Equipment, such Fair Market Rental Value shall be determined in accordance with the procedure for Appraisal.

Fair Market Value of an Item of Leased Equipment shall be determined on the basis of, and shall mean the amount which would be obtainable in, an arm's-length transaction between an informed and willing buyer or user (other than a lessee currently in possession) under no compulsion to buy and an informed and willing seller under no compulsion to sell, and in such determination costs of removal from the location of current use to Lark, Utah shall not be a deduction from such value. If the Lessor and the Lessee are unable to agree upon a determination of Fair Market Value with respect to a particular Item of Leased Equipment, such Fair Market Value shall be determined in accordance with the procedure for Appraisal.

Group of Equipment and Lessor's Cost shall have the meanings set forth in the Certificate of Acceptance with respect to each Item of Leased Equipment.

Impositions shall have the meaning set forth in Section 8 hereof.

Improvement shall have the meaning set forth in Section 9 hereof.

Indenture shall mean the Equipment Trust Agreement dated as of the date hereof between United States Trust Company of New York, a New York corporation (the Trustee), and the Lessor.

Leased Equipment, and individually an Item of Leased Equipment, shall have the meanings set forth in Section 2 hereof.

Liens and Lessor's Liens shall have the meanings set forth in Section 5 hereof.

Loss shall have the meaning set forth in Section 15 hereof.

Participation Agreement shall mean the agreement, dated as of the date hereof among the Lessee, each Beneficiary, and the entity named therein as Lender.

Person shall mean any individual, partnership, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

Purchase Documents shall mean those documents entered into by the Lessor with the Manufacturer of the Equipment, or by the Lessee and assigned to the Lessor, as are necessary and appropriate to consumate the purchase of the Equipment by the Lessor.

Replacement Part shall have the meaning set forth in Section 9 hereof.

Requisition of Use shall have the meaning set forth in Section 11 hereof.

Return to Manufacturer shall have the meaning set forth in Section 11 hereof.

SECTION 2. Lease of Equipment.

Subject to the terms and conditions of this Lease, the Lessor hereby agrees to lease to the Lessee, and the Lessee hereby agrees to lease from the Lessor, such Items of Equipment as the Lessor shall have acquired, or become obligated to pay for, pursuant to the Purchase Documents (Leased Equipment, and individually an Item of Leased Equipment). Subject to Section 7 of the Participation Agreement, upon delivery of each Item of Leased Equipment to the Lessor on or after the First Delivery Date, but on or before the Final Delivery Date, the Lessee will either (a) cause an authorized representative of the Lessee to inspect the same and, if such Item is found to be in good order, to accept such Item and to execute and deliver a Certificate of Acceptance with respect thereto or (b) if the Lessee, acting in good faith, should find that such Item is not in good order, return the same to the manufacturer or seller thereof. Each item

of Leased Equipment delivered to the Lessee in accordance with the Purchase Documents shall be subject to the terms and conditions of this Lease from the date the Lessor becomes obligated to pay for such Item.

SECTION 3. Term and Rent.

(a) The term of this Lease shall begin on the date the first Item of Equipment shall become subject to the terms of this Lease and shall end on the Expiration Date unless this Lease shall have been terminated, or the term of this Lease shall have been extended, by the terms hereof.

(b) The Lessee shall pay to the Lessor as basic rent (herein referred to as Basic Rent) for each Item of Leased Equipment, the following:

(1) on the Interim Rent Date, an amount equal to the Daily Lease Rate Factor, if any, multiplied by the Lessor's Cost of such Item, for each day elapsed from, and including, the Rent Commencement Date with respect to such Item to, but excluding, the Interim Rent Date;

(2) on the First Basic Rent Date, an amount equal to the Basic Lease Rate Factor multiplied by the Lessor's Cost of such Item; and

(3) on each Basic Rent Date thereafter to, and including, the Last Basic Rent Date, an amount equal to the Basic Lease Rate Factor multiplied by the Lessor's Cost of such Item.

(c) The Lessee shall pay to the Lessor the following amounts (herein referred to as Supplemental Rent and, together with all Basic Rent, as Rent):

(1) on demand, any amount due and payable hereunder (other than Basic Rent, Casualty Value and Termination Value, if any) which the Lessee assumes the obligation to pay, or agrees to pay, under this Lease to the Lessor;

(2) on the date provided herein, any amount payable hereunder as Casualty Value or Termination Value, if any; and

(3) on demand, to the extent permitted by applicable law, interest (computed on the basis of a 360-day year of actual days elapsed) at the Late Payment Rate on any payment of Basic Rent, Casualty Value or Termination Value and any other Supplemental Rent, if any, not paid when due for any period during which the same shall be overdue.

(d) Subject to the provisions of Section 10(a) of the Participation Agreement, all payments of Rent hereunder shall be made so that the Lessor shall have immediately available funds no later than 1:00 P.M. New

York City time on the date payable hereunder and shall be paid to the Lessor at its address set forth herein or at such other address or to such other Person as the Lessor may direct by notice in writing to the Lessee.

SECTION 4. Net Lease.

This Lease is a net lease, and the Lessee acknowledges and agrees that the Lessee's obligation to pay all Rent hereunder, and the rights of the Lessor in and to such Rent, shall be absolute and unconditional and shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment (Abatements) for any reason whatsoever, including, without limitation, Abatements due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise, against the manufacturer or seller of any Item of Leased Equipment, or against any other Person for whatever reason. Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the obligations of the Lessee be affected, by reason of any defect in or damage to, or any loss or destruction of, the Leased Equipment or any Item thereof from whatsoever cause, or the interference with the use thereof by the Lessor or any Person, or the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, or any failure of the Lessor to perform any obligation of the Lessor to the Lessee or any other Person under this Lease, the Participation Agreement or any instrument or document executed in connection herewith, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law or regulation to the contrary notwithstanding, it being the express intention of the Lessor and the Lessee that all Rent payable by the Lessee hereunder shall be, and continue to be, payable in all events unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

SECTION 5. Return of Equipment.

Upon the expiration or termination of this Lease or any storage period as provided in Section 24 hereof, the Lessee, at its own risk and expense, will return the Items of Leased Equipment then subject to this Lease to the Lessor pursuant to the Lessor's instructions set forth under the heading Return of Equipment in Exhibit C hereto and in the condition in which such Leased Equipment is required to be maintained pursuant to Section 9 hereof. Such Leased Equipment, upon redelivery pursuant hereto, shall be free and clear of all mortgages, liens, security interests, charges, claims or other encumbrances (Liens) other than Liens either (a) created or granted by the Lessor, including any such Liens created or granted in connection with the purchase or financing of the Leased Equipment, or (b) resulting from claims against the Lessor not related to the Lessor's ownership of the Leased Equipment (Liens described in clauses (a) and (b) above being herein referred to as Lessor's Liens). Lessee may, on or before the date of redelivery and at its own expense remove any Improvement installed or affixed to an Item of Leased Equipment by the Lessee if such removal does not cause material damage to such Item.

SECTION 6. Warranty of the Lessor.

(a) The Lessor warrants that during the term of this Lease, if no Event of Default has occurred, the Lessee's use of the Leased Equipment shall not be interrupted by the Lessor or anyone claiming solely through or under the Lessor.

(b) The warranty set forth in paragraph (a) of this Section is in lieu of all other warranties of the Lessor, whether written, oral or implied with respect to this Lease or the Leased Equipment, and the Lessor shall not be deemed to have modified in any respect the obligations of the Lessee pursuant to Section 4 hereof, which obligations are absolute and unconditional. THE LESSEE EXPRESSLY AGREES TO LEASE EACH ITEM OF LEASED EQUIPMENT "AS IS." THE LESSOR SHALL NOT BE DEEMED TO HAVE MADE, AND THE LESSOR HEREBY DISCLAIMS, ANY OTHER REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE LEASED EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE LEASED EQUIPMENT OR CONFORMITY OF THE LEASED EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, NOR SHALL THE LESSOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT OR ABSOLUTE LIABILITY IN TORT), but the Lessor authorizes the Lessee, at the Lessee's expense, to assert for the Lessor's account, during the term of this Lease, so long as no Event of Default shall have occurred hereunder, all of the Lessor's rights under any applicable manufacturer's or seller's warranty and the Lessor agrees to cooperate with the Lessee in asserting such rights; provided, however, that the Lessee shall indemnify the Lessor and hold the Lessor harmless from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by the Lessor in connection with, as a result of, or incidental to, any action by the Lessee pursuant to the above authorization. Lessee is hereby authorized to make any necessary adjustments on Lessor's behalf with any manufacturer of Leased Equipment pursuant to any applicable warranty and to hold the monies payable from any manufacturer on account of such adjustments for application against future repairs and maintenance of the Leased Equipment.

SECTION 7. Liens.

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Liens on or with respect to the Leased Equipment, the Lessor's title thereto or any interest of the Lessor therein (and the Lessee will promptly, at its own expense, take such action as may be necessary duly to discharge any such Lien), except (a) the respective rights of the Lessor and the Lessee as herein provided, (b) Lessor's Liens, (c) Liens for taxes either not yet due or being contested by the Lessee in good faith with due diligence and by appropriate proceedings, and (d) inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business of the Lessee and not delinquent.

SECTION 8. Taxes.

The Lessee agrees to pay and to indemnify the Lessor for, and hold the Lessor harmless from and against (on a net after-tax basis) all withholdings with respect to taxes and all taxes of any nature, form or description, together with any penalties, fines or interest thereon (Impositions), arising out of the transactions contemplated by this Lease and imposed against the Lessor, the Lessee or any Item of Leased Equipment by any Federal, state, local or foreign government or taxing authority upon or with respect to any Item of Leased Equipment or upon the sale, 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; provided however the foregoing indemnity shall not apply: (i) to any federal, state or local taxes (or any other Impositions) on or measured by the Lessor's (or any other Person's) net income from, upon or with respect to any Item of Leased Equipment or from the transactions contemplated by this Lease; (ii) to any federal, state or local taxes (or any other Impositions) based on or measured by the Lessor's (or any other Person's) gross income or receipts from, upon or with respect to any Item of Leased Equipment or as a result of the transactions contemplated by this Lease which are imposed in substitution for any federal, state or local taxes (or any other Impositions) referred to in clause (i) above; (iii) any federal, state or local taxes (or any other Impositions) imposed as a result of the willful misconduct or negligence of the party to be indemnified; (iv) any federal, state or local minimum tax imposed on or with respect to items of tax preference or any similar tax; (v) any taxes or any other Impositions which are included in Lessor's Cost; (vi) any taxes or other Impositions on or measured by any fees or compensation received by Lessor or any other Person for services rendered in connection with the transactions contemplated by this Lease; (vii) any taxes or Impositions (including any federal, state or local capital gain taxes) imposed upon the sale, transfer or other disposition of any Item of Leased Equipment or any portion thereof, all or any part of the beneficial interest in the Equipment, or all or any part of the Notes; provided, however, that nothing set forth in this Section 8 shall be deemed to abrogate or in any way affect any tax indemnification rights of Lessor pursuant to Section 15 hereof; (viii) any taxes or other Impositions not imposed as a result of an action of Lessee and which are fairly attributable to the events or periods after the end of the term of this Lease; or (ix) any amendment to the Trust Agreement without the prior written consent of Lessee.

If a claim is made against the Lessor for any such Impositions, with respect to which the Lessee is liable for payment or indemnification under this Section 8, the Lessor shall within 30 business days give the Lessee notice in writing of such claim and shall furnish the Lessee with copies of any request of information from any taxing authority relating to such Impositions, and shall in good faith, with due diligence and at the Lessee's expense, if requested in writing by the Lessee, contest (or shall permit Lessee to contest in the name of Lessor) the validity, applicability, or amount of such tax or other Impositions; provided, however, that

the Lessor shall not be required to take any action pursuant to this Section unless and until Lessor shall have reasonably determined that the action to be taken shall not result in the forfeiture or loss of any Item of Leased Equipment. If the Lessor shall obtain a refund of all or any part of any taxes or other Impositions attributable to any amount paid by the Lessee pursuant to this Section 8, Lessor shall promptly pay to Lessee the amount of such refund (plus any interest received thereon) together with any additional amounts theretofore paid by the Lessee in respect of such Impositions net of out-of-pocket expenses not otherwise reimbursed by the Lessee, so that the Lessor shall neither profit nor lose (on a net after-tax basis) from the Imposition, the indemnity and the refund in respect thereof; provided however, that no Event of Default shall have occurred and be continuing. If a claim is made against the Lessee or the Lessor for any Imposition, the party receiving notice of such claim shall promptly notify the other. In case any report or return is required to be made with respect to any obligation of the Lessee under this Section or arising out of this Section, the Lessee will either (after notice to the Lessor) make such report or return in such manner as will show the ownership of the Leased Equipment in the Lessor and send a copy of such report or return to the Lessor or will notify the Lessor of such requirement and make such report or return in such manner as shall be satisfactory to the Lessor and Lessee. The Lessor agrees to cooperate fully with the Lessee in the preparation of any such report or return.

SECTION 9. Use, Maintenance and Operation; Equipment Marking

(a) The Lessee agrees that its use of each Item of Leased Equipment will not violate any statutes, laws, ordinances or regulations of any governmental agency applicable to the use of the Leased Equipment, the violation of which would subject the Lessor to legal or administrative remedies or which would result in the invalidation of the Lender's security interest in any Item of Leased Equipment. Subject to the provisions of Section 14 hereof, the Lessee will at all times use the Leased Equipment solely in the conduct of its business and the Leased Equipment will remain in the possession and control of the Lessee within the geographic limits of the continental United States; provided, however, that upon giving of prior written notice to Lessor, Lessee may transfer possession and control of the Leased Equipment to any member of a consolidated group of companies of which Lessee is a member or to a joint venture or a partnership of which Lessee is a party or member; provided, further, that Lessee may upon the prior written consent of Lessor (which consent shall not be unreasonably withheld) transfer possession and control of the Leased Equipment to any other entity, and; provided, further, that Lessee shall not permit the removal of the Leased Equipment from the State of Utah unless and until Lessor shall have been given notice of such removal and financing statements have been filed and such other steps taken which, in the opinion of the Lessor and the Trustee, are sufficient to furnish notice of and protect the respective interests of the Lessor and the Trustee in the Leased Equipment in any such new location. Throughout the term of this Lease, the

possession, use and maintenance of the Leased Equipment shall be at the sole risk and expense of the Lessee. No relinquishment of possession or control of the Leased Equipment shall in any way discharge or diminish any of the Lessee's obligations hereunder.

(b) The Lessee shall use the Items of Leased Equipment only in the manner for which they were designed and intended and will, at its own cost and expense, repair and maintain each Item of Leased Equipment so as to keep it in as good condition as when delivered to the Lessee hereunder, ordinary wear and tear excepted. Any replacement made by the Lessee upon an Item of Leased Equipment in connection with repairing such Item shall be considered an accession to such Item, and title to such replacement part (any such replacement part being herein referred to as a Replacement Part) shall upon installation or affixation thereof, automatically vest in the Lessor. Effective upon installation or affixation of any Replacement Part, the Lessor shall be deemed to have disclaimed ownership of, and the Trustee shall be deemed to have released its security interest in, the original part so replaced.

(c) The Lessee may, without the prior written consent of the Lessor, either (1) repair any Item of Leased Equipment by the installation of a Replacement Part, or (2) affix or install any accessory, equipment or device on any Item of Leased Equipment or make any improvement or addition thereto (any such accessory, equipment or device, improvement or addition affixed or installed pursuant to this clause (2) being herein referred to as an Improvement) if such Improvement will not impair the originally intended function or use of any such Item and is readily removable without causing material damage to such Item of Leased Equipment, or (3) affix or install any Improvement required by law. Any other Improvement may be affixed or installed only with the prior written consent of the Lessor, which consent shall not be unreasonably withheld; provided, however, the Lessor may reasonably withhold consent to such affixation or installation upon failure by Lessee to agree to indemnify Lessor for tax liability which may be imposed due to such affixation or installation, it being understood, however, that the provisions of any such indemnity shall be substantially the same, mutatis mutandis, as those set forth in Section 9(d) hereof and that Lessor will not withhold such consent pursuant to this proviso if Lessee agrees to indemnify Lessor pursuant to such provisions or other provisions substantially similar thereto. Only such Improvements which are not so readily removable and which have been affixed to or installed on any Item with the consent of the Lessor shall upon affixation or installation become the property of the Lessor and thereupon each such Improvement shall become a part of the Item of Leased Equipment to which it is affixed or on which it is installed. Improvements which are readily removable but which are not removed by the Lessee at or prior to the expiration or termination of this Lease or within 30 days thereafter shall become the property of the Lessor as of the date of such expiration or termination. Lessor may by notice in writing require the Lessee to remove readily removable Improvements within 30 days of the expiration or termination of the Lease.

(d) If for any reason whatsoever all or any part of the cost of any Improvement referred to in clause 3 of Section 9(c) hereof made by the Lessee under and pursuant to the terms of this Lease or otherwise is required to be included in the gross income of the Lessor for Federal, state or local income tax purposes at any time prior to the time such Equipment is disposed of in a taxable transaction, the Lessee will pay Lessor, on demand, (i) an amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority in the United States, shall be equal to the sum of the net additional Federal, state or local income taxes payable by Lessor from time to time as a result of such cost or portion thereof, plus (ii) the amount of any interest penalties or additions to taxes payable as a result of any such cost or portion thereof; it being understood that the amount payable pursuant to this sentence shall not be due and payable by Lessee prior to the payment by Lessor of such net additional Federal, state or local income taxes. If Lessor realizes a tax benefit as a result of any Improvement, Lessor shall pay Lessee an amount equal to such tax benefit (plus additional tax savings, if any, realized by Lessor as a result of the payment of such amount or the payment of such tax savings) when, as, if, and to the extent realized; provided, however, such payment shall in no event result in a reduction of Lessor's net after-tax annual rate of return from this Lease.

(e) The Lessee agrees that each Item of Leased Equipment shall be, and shall continue to be throughout the term of this Lease, personal property under applicable law. The Lessee agrees (1) to take such action as shall be required from time to time by the Lessor to protect the respective interests of the Lessor and the Trustee in each such Item and the right of the Lessor to remove the same, and (2) not to affix any Item of Leased Equipment to any real property if, as a result thereof, any such Item will become a fixture under applicable law.

(f) The Lessee agrees, at its own cost and expense, to (1) cause each Item of Leased Equipment to be kept numbered with the identification or serial number therefor as specified in the Certificate of Acceptance therefor, and (2) maintain the Equipment Marking on each Item of Leased Equipment and such other markings as from time to time may be required by law or otherwise deemed necessary by the Lessor in order to protect the title of the Lessor to such Item of Leased Equipment, the rights of the Lessor under this Lease and the Liens granted by the Lessor in financing the Lessor's Cost of the Leased Equipment. The Lessee will not place any Item of Leased Equipment in operation or exercise any control or dominion over the same until such Equipment Marking has been placed thereon. The Lessee will promptly replace at its own cost and expense any such Equipment Marking which may be removed, defaced or destroyed.

SECTION 10. Inspection.

The Lessor shall have the right, but not the duty, to inspect the Leased Equipment at its own expense. Upon the request of the Lessor,

the Lessee shall confirm to the Lessor the location of each Item of Leased Equipment and shall, at any reasonable time, make the Leased Equipment, and the Lessee's records pertaining to the Leased Equipment, available to the Lessor for inspection.

SECTION 11. Loss or Destruction; Requisition of Use.

(a) In the event that any Item of Leased Equipment shall be or become damaged, worn out, destroyed, lost, stolen, or permanently rendered unfit for use for any reason whatsoever, or title thereto or use thereof shall be requisitioned or otherwise taken by any governmental authority under power of eminent domain or otherwise (any such taking being herein referred to as a Requisition of Use), or any Item of Leased Equipment is returned to the manufacturer or seller thereof pursuant to the patent indemnity or warranty provisions of the Purchase Documents (any such return being herein referred to as Return to Manufacturer), such fact shall promptly be reported by the Lessee to the Lessor; provided, however, that no such report need be made with respect to damage to any Item of Equipment if the cost of repairing the same shall amount to less than $25,000.

(b) The Lessee shall determine, within 15 days after the date of occurrence of any such damage or wearing out, whether such Item of Leased Equipment can be repaired or replaced.

(c) In the event the Lessee determines that such Item cannot be economically repaired, in the event that the Lessee determines not to replace such item, or in the event of such destruction, loss, theft, unfitness for use, Requisition of Use for a stated period which exceeds the term of this Lease, or Return to Manufacturer other than for modification in the event of patent infringement or for repair or replacement (any of such occurrences being referred to as an Event of Loss, and the date thereof being the date of such damage, wearing out, destruction, loss, theft, unfitness for use, such Requisition of Use or Return to Manufacturer), the Lessee shall promptly notify the Lessor in writing of such Event of Loss. On the Basic Rent Date next following the date of such Event of Loss, the Lessee shall pay to the Lessor the Casualty Value of such Item determined as of such Basic Rent Date, together with any Rent then due.

In the event the Lessee determines that such Item can be economically repaired or replaced, including repair or replacement in the event of Return to Manufacturer, the Lessee shall continue to make all payments of Basic Rent due with respect to such Item and shall (1) cause such Item to be repaired or replaced within 90 days after the occurrence of such damage or wearing out, and (2) in the event of replacement, take such action as may be required under and pursuant to the Indenture to perfect, protect and preserve any security interests granted by the Lessor under and pursuant to the Indenture; provided, however, that if the Lessee shall, within such 90-day period, have commenced the repair or replacement of such

Item and be diligently pursuing such repair or replacement, but is prevented from completing such repair or replacement within such 90-day period due to causes beyond the Lessee's control, then the time for repair or replacement shall be extended by the number of days necessary to complete such repair or replacement up to a maximum of 90 additional days, and provided, further, that if the Lessee shall fail to cause such Item to be repaired or replaced within such repair or replacement period, including any extension thereof, the Lessee shall, on the Basic Rent Date next following the end of such repair or replacement period, including any extension thereof, pay to the Lessor the Casualty Value of such Item, determined as of such Basic Rent Date, together with any Rent then due. If at such time no more Basic Rent is or will become payable under this Lease, the Casualty Value shall be paid within 30 days following, as appropriate, the Event of Loss or the repair or replacement period. The obligation of the Lessee to pay Rent during the above-described replacement or repair period shall remain in full force and effect and, upon replacement, any replacement item shall be considered an Item of Leased Equipment for all purposes of this Lease and the Lessee's obligation to pay Basic Rent with respect thereto shall be computed on the basis of the Lessor's Cost of the Item replaced. Notwithstanding the foregoing, the Lessee, pursuant to the provisions of Section 15 hereof, shall still be required to indemnify the Lessor for any Loss due to the Lessee's act of replacing such Item or otherwise causing such Item to be replaced, including replacement in the event of Return to Manufacturer. Upon making such Casualty Value payment in respect of such Item and all Rent due and owing with respect thereto, the Lessee's obligation to pay further Basic Rent for such Item shall cease, but the Lessee's obligation to pay Supplemental Rent, if any, for such Item, and to pay Rent for all other Items of Leased Equipment, shall remain unchanged. Except in the case of loss, theft, destruction, or Return to Manufacturer, the Lessor shall be entitled to recover possession of such Item, unless possession of any such Item is required to be delivered to an insurance carrier (other than the Lessee) in order to settle an insurance claim arising out of the Event of Loss. The Lessor shall be entitled to retain any salvage value collected by such insurance carrier in excess of the amount paid to the Lessor by such insurance carrier. The Lessor shall be under no duty to the Lessee to pursue any claim against any governmental authority, but the Lessee may at its own cost and expense pursue the same on behalf of the Lessor in such manner as may be satisfactory to the Lessor. Any replacement Item replacing another Item in accordance with the provisions of this paragraph shall be in as good operating condition as, and shall have a value and utility at least equal to, the Item replaced, and no Item of Leased Equipment shall be modified upon Return to Manufacturer in order to cause such Item to be non-infringing, unless, after modification, such Item shall have a value and utility at least equal to the value and utility of such Item before modification, assuming the Item replaced or modified was in the condition and state of repair required to be maintained by the terms hereof.

(d) Following payment of the Casualty Value of an Item of Leased Equipment in accordance with the provisions of paragraph (c) of

this Section, the Lessee, if possible, shall, as agent for the Lessor, dispose of such Item as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an as is, where is basis without recourse, representation or warranty, express or implied. As to each separate Item so disposed of, the Lessee may, after paying the Lessor the amounts specified in paragraph (c) of this Section, retain all amounts of such price up to the Casualty Value thereof and the Lessee's reasonable costs and expenses of disposition attributable thereto, and shall remit the excess, if any, to the Lessor. In the event of Return to Manufacturer of any Item of Leased Equipment, the Lessor agrees that the Lessee shall receive and retain all amounts payable to the Lessor by the manufacturer or seller of such Item, up to the amount, if any, of the Casualty Value paid by the Lessee to the Lessor hereunder, and any excess shall be paid over to or retained by the Lessor. With respect to a Requisition of Use of any Item of Leased Equipment for a stated period which exceeds the term of this Lease, the Lessor agrees that the Lessee shall receive and retain all amounts paid by any governmental authority up to the Casualty Value paid by the Lessee to the Lessor hereunder, and any excess shall be paid over and retained by the Lessor. With respect to insurance proceeds paid to Lessee or Lessor by reason of an Event of Loss, the Lessee shall retain all amounts paid by any insurer up to the Casualty Value paid by the Lessee to the Lessor hereunder, and any excess shall be paid over and retained by the Lessor. All insurance proceeds payable with respect to an Event of Loss shall be payable to the Lessee.

(e) Except as provided in this Section, the Lessee shall bear the risk of loss and shall not be released from its obligations hereunder in the event of any damage to any Item of Leased Equipment or any Event of Loss relating thereto.

(f) In the case of a Requisition of Use of any Item of Leased Equipment for an indefinite period or for a stated period which does not exceed the term of this Lease, such Requisition of Use shall not terminate this Lease with respect to such Item and each and every obligation of the Lessee with respect thereto shall remain in full force and effect. So long as no Event of Default shall have occurred and be continuing under this Lease, the Lessee shall be entitled to all sums, attributable to the period such Item is subject to this Lease, received by reason of any such Requisition of Use referred to in the preceding sentence, up to the amount of the Basic Rent paid by the Lessee during the period of such Requisition of Use, and the Lessor shall be entitled to all amounts in excess of the Basic Rent.

SECTION 12. Liability Insurance.

At its own expense Lessee shall maintain the following insurance with respect to each Item of Leased Equipment: Comprehensive General Liability Insurance with limits of at least $500,000 bodily injury, including death, and $500,000/500,000 property damage. Any policies with respect to such insurance shall (1) be with an insurance carrier acceptable to the

Lessor, it being understood, however, that the Lessee's present carrier, Liberty Mutual Insurance Company, is acceptable and that Lessor's acceptance of any other carrier designated by Lessee will not be unreasonably withheld, (2) name the Lessor, the Trustee and the Lessee as assureds, as their interests may appear, and (3) provide for at least 30 days' prior written notice by the insurance carrier to the Lessor in the event of cancellation, expiration or material modification. The Lessee shall, prior to the First Delivery Date and annually thereafter on the anniversary thereof, furnish appropriate evidence of such insurance.

SECTION 13. Indemnification.

The Lessee agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor from and against any and all liabilities, obligations, losses, damages, penalties, claims (including, without limitation, claims involving strict or absolute liability in tort), actions, suits, costs, expenses and disbursements (including, without limitation, legal fees and expenses) of any kind and nature whatsoever (Claims) in any way relating to or arising out of this Lease or any document contemplated hereby, or the performance or enforcement of any of the terms hereof or thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, sublease, possession, use, operation, maintenance, condition, registration, sale, return, storage or disposition of any Item of Leased Equipment or any accident in connection therewith (including, without limitation, latent and other defects, whether or not discoverable and any Claim for patent, trademark or copyright infringement); provided, however, that the Lessee shall not be required to indemnify the Lessor pursuant to this Section 13 for (a) any Claim in respect of any Item of Leased Equipment arising from acts or events which occur after possession of such Item of Leased Equipment has been redelivered to the Lessor in accordance with Section 5 or any other provision hereof, (b) any Claim resulting from acts which would constitute the willful misconduct or gross negligence of the Lessor, (c) any taxes or other Impositions (as defined in Section 8 hereof) or any amounts under Section 15 hereof; (d) any Claim arising from the breach of any express duty or express representation or warranty of the indemnified party contained in this Lease or any document contemplated by this Lease; (e) any Claim arising from the sale, transfer or other disposition of all or any part of the Leased Equipment or any beneficial interest therein, or all or any part of the Certificates; (f) any amendment to the Trust Agreement without the prior written consent of Lessee; or (g) any Claim for services rendered or expenses arising in connection with the negotiation, preparation or execution of this Lease or any document contemplated hereby or related hereto. Notwithstanding the foregoing, nothing set forth in this Section 13 shall be deemed to abrogate or in any way affect any rights of Lessor set forth in any other Section hereof. To the extent that the Lessor in fact receives indemnification payments from the Lessee under the indemnification provisions of this Section, the Lessee shall be subrogated, to the extent of such indemnity paid, to the Lessor's rights with respect to the

transaction or event requiring or giving rise to such indemnity; provided, however, that the Lessee shall not enforce any such rights by legal proceedings without the Lessor's approval, which approval shall not be unreasonably withheld or delayed. THE LESSEE AGREES THAT THE LESSOR SHALL NOT BE LIABLE TO THE LESSEE FOR ANY CLAIM CAUSED DIRECTLY OR INDIRECTLY BY THE INADEQUACY OF ANY ITEM OF LEASED 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 THE LESSEE.

SECTION 14. Sublease and Assignment.

The Lessee will not, without the prior written consent of the Lessor, which consent will not be unreasonably withheld or unreasonably delayed, sublet or otherwise relinquish possession of any of the Leased Equipment or assign any of its rights hereunder; provided, however, that without such consent, the Lessee, so long as no event which, with the giving of notice or lapse of time or both, would become an Event of Default shall have occurred hereunder and be continuing, may assign this Lease or sublease any Item of Leased Equipment (i) upon written notice to the Lessor, to any member of the consolidated group of companies of which Lessee is a member (ii) upon prior written notice to the Lessor, to any person for a period or periods not in excess of an aggregate of 90 days in any successive 12 month period and (iii) to any joint venture or partnership to which Lessee is a party or member. No sublease shall be permitted hereunder unless (a) the rights of the sublessee thereunder are expressly subject and subordinate to the rights of the Lessor and any security assignee of the Lessor, (b) the Items of Leased Equipment to be subleased shall be used within the geographic limits of the continental United States, and (c) financing statements shall have been filed and such other steps shall have been taken which, in the opinion of the Lessor and the Trustee, are sufficient to furnish notice of and protect the interests of the Lessor and the Trustee in the Leased Equipment in any new location. No sublease, other relinquishment of the possession of any of the Leased Equipment or assignment by the Lessee of any of its rights hereunder shall in any way discharge or diminish any of the Lessee's obligations to the Lessor hereunder.

SECTION 15. Tax Indemnification.

(a) If by reason of any act, failure to act, or the misrepresentation of or by the Lessee set forth in Section 3(i) of the Participation Agreement (except as otherwise provided in (c) below) the Lessor shall not be allowed, or shall have had recaptured, all or any portion of

(1) the investment tax credit (the Investment Credit) allowed by section 38 and related sections of the Internal Revenue Code of

1954, as amended, and the Regulations thereunder (collectively called the Code), in an amount equal to the Investment Credit Percentage of Lessor's Cost of each Item of Leased Equipment set forth in Exhibit C hereto;

(2) the deduction for accelerated depreciation (the Depreciation Deduction) on each Item of Leased Equipment under various sections of the Code based upon the Depreciable Life, Depreciation Method and Net Salvage Value set forth in Exhibit C hereto; or

(3) the deduction under section 163 of the Code (the Interest Deduction) of any interest paid or accrued by the Lessor in accordance with the Lessor's method of accounting for tax purposes with respect to any indebtedness incurred by the Lessor in financing its purchase of each Item of Leased Equipment:

(any such disallowance or recapture being called herein a Loss,) then the Basic Lease Rate Factor applicable to such Item or Items of Leased Equipment shall, on and after the next succeeding Basic Rent Date, upon written notice to the Lessee by the Lessor that a Loss has occurred, be adjusted (based on the same assumptions used in arriving at the Basic Lease Rate Factor), and by taking into account all relevant tax effects to the Lessor as a result of such Loss, by such amount for such Item or Items, which by mutual agreement between the Lessee and the Lessor, will cause the Lessor's after tax rate of return (as disclosed to Arthur Andersen & Co. (Accounting Firm) on or before the date hereof) over the term of this Lease in respect to such Item or Items to equal the after tax rate of return that would have been available if the Lessor had been allowed the Investment Credit, the Interest Deduction and the Depreciation Deduction with respect to such Item or Items. In the event that the Lessee and Lessor fail to mutually agree on the amount of the adjustment, if any, the amount will be determined by the opinion of the Accounting Firm. If such Loss occurs after the Last Basic Rent Date, the Lessor shall notify the Lessee in writing of such Loss and the Lessee shall pay to the Lessor such sum as will (as determined by agreement between the Lessor and the Lessee) cause the Lessor's after tax rate of return (as disclosed to the Accounting Firm on or before the date hereof) over the term of this Lease (based on the assumptions disclosed to the Accounting Firm on or before the date hereof in respect of such Item, and taking into account all relevant tax effects to the Lessor as a result of such Loss), to equal the after tax rate of return that would have been available if the Lessor had been allowed the Investment Credit, the Interest Deduction and the Depreciation Deduction with respect to such Item.

(b) If the Internal Revenue Service shall make a claim which, if successful, would result in payment of an indemnity pursuant to this Section 15, the Lessor agrees to take such action in connection with contesting such claim (including such judicial proceedings) as the Lessee shall reasonably request from time to time, provided that (i) within 45 days after notice by the Lessor to the Lessee of such claim, the Lessee shall request in writing that such claim be contested; (ii) the Lessor, at

its sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service in respect of such claim and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United States District Court and/or the United States Court of Claims, as the Lessor shall elect, or contest such claim in the United States Tax Court, considering, however, in good faith such requests as the Lessee shall make concerning the most appropriate forum in which to proceed; (iii) the Lessee shall have furnished the Lessor with a written opinion of independent tax counsel selected by Lessee, which counsel shall be reasonably satisfactory to the Lessor, to the effect that a colorable defense exists to such claim; and (iv) the Lessee shall have agreed to indemnify and to secure the Lessor in a manner satisfactory to it for any liability or loss (other than any liability or loss unrelated to the transactions contemplated by this Lease) which the Lessor may incur as the result of contesting such claim and to pay the Lessor on demand all costs and expenses which the Lessor may incur in connection with contesting such claim, including, without limitation, (A) reasonable attorneys' and accountants' fees and disbursements, (B) the amount of any interest which may ultimately be payable to the United States Government as the result of contesting such claim, and (C) in the event the Lessor shall pay the tax claimed and then seek a refund and provided Lessee has not elected, as provided below, to pay the tax claimed, and the final determination of such claim shall be adverse to the Lessor, interest on the amount of the tax paid, computed for each day based on an interest rate equal to the Late Payment Rate from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for the payment of such tax in accordance with the terms of this Section 15, it being expressly agreed that the Lessor shall in no event compromise or settle any such claim or cease to take such action to contest such claim as may be requested by the Lessee pursuant to this Section 15(b) without the written consent of the Lessee. Notwithstanding the foregoing, the Lessor shall have the right to compromise or settle any such claim or cease to take such action to contest such claim if it waives in writing its right to any indemnification with respect to such claim under this Section 15. If any such claim referred to above shall be made by the Internal Revenue Service and the Lessee shall have reasonably requested the Lessor to contest such claim as above provided and shall have duly complied with all of the terms of this Section 15(b), the Lessee's liability under this Section 15, with respect to such claim shall become fixed upon final determination of the Lessor's liability for the tax claimed and after giving effect to any refund obtained, together with interest thereon; but in all other cases the liability of the Lessee under Section 15 of this Lease shall become fixed at the time the Lessor makes payment of the tax attributable to the claim, subject to later readjustment in the event there is a final determination that all or any part of the claim is not sustained. In the event the Lessor elects to pay the tax claimed and sue for a refund, Lessee may pay the tax claimed, in which event the Lessor shall repay to Lessee any refund received, together with interest received thereon. In the case of any such claim by the Internal Revenue Service referred to above, the 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 45 days after the giving of such notice (unless the Lessor and the Lessee shall mutually otherwise agree) and agrees to give to the Lessee any relevant information relating to such claim which may be particularly within the knowledge of the Lessor, and shall, subject to the first sentence of this Section 15(b), otherwise cooperate with the Lessee in good faith in order effectively to contest any such claim.

(c) The Lessee shall not be required to make any payment pursuant to the foregoing provisions of this Section 15 in respect of any Loss which is the direct result of any one or more of the following causes:

(1) an event whereby Lessee is required or permitted by any of the terms of this Lease to pay, and thereupon pays in full, the Casualty Loss Value, Termination Value or Fair Market Value;

(2) the disposition or transfer of the Equipment as a result of the exercise of any right of first refusal granted to the Lessee under this Lease.

(d) All rights, privileges, indemnities and obligations contained in this Section shall survive the expiration or other termination of this Lease.

(e) With respect to the provisions of this Section 15 the "Lessor", as used herein, shall mean the applicable Beneficary, and each such Beneficiary is hereby made a third party beneficiary for purposes of the provisions hereof.

SECTION 16. Lease Extension.

(a) Provided that this Lease has not been terminated and provided that no Event of Default has occurred and is continuing hereunder, the Lessee shall have the option to extend the term of this Lease at the Expiration Date for such Lease Extension Periods as are provided for in Exhibit C hereto for a rental equal to the Fair Market Rental Value thereof, determined as of such Expiration Date.

(b) Not less than 120 days prior to the Expiration Date the Lessee may indicate, by written notice to the Lessor, the Lessee's interest in exercising the Lessee's lease extension option described above, which notice shall set forth the Lessee's estimate of the Fair Market Rental Value of the Leased Equipment as of the Expiration Date. If, on or before a date 90 days prior to the Expiration Date, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value of the Leased Equipment, such Fair Market Rental Value shall be determined in accordance with the procedure for Appraisal. After a determination of the Fair Market Rental Value of the Leased Equipment has been made in accordance with the procedure described above, the Lessee may exercise its option to extend the term of this Lease with respect to the Leased Equipment for the Fair Market Rental Value thereof by delivering written

notice of such exercise to the Lessor not less than 45 days prior to the Expiration Date.

SECTION 17. Events of Default.

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

(a) The Lessee shall fail to make any payment of Basic Rent within 10 days after the same shall become due or shall fail to make any payment of Rent when due other than Basic Rent 10 days after notice of such failure; or

(b) The Lessee shall fail to perform or observe any other covenant or agreement to be performed or observed by it under this Lease, the Participation Agreement or any agreement, document or certificate referred to in the Lease or in the Participation Agreement and delivered by the Lessee in connection herewith or therewith, and such failure shall continue for 45 days after written notice thereof from the Lessor to the Lessee; or

(c) Any representation or warranty (except the representation set forth in Section 3(i) of the Participation Agreement) made by the Lessee in the Participation Agreement or any agreement, document or certificate referred to in this Lease or in the Participation Agreement and delivered by the Lessee in connection herewith or therewith shall prove to have been incorrect in any material respect when any such representation or warranty was made or given; or

(d) A petition in bankruptcy or for reorganization or arrangement shall be filed by the Lessee; or the Lessee shall make an assignment for the benefit of creditors or consent to the appointment of a trustee or a receiver, or a trustee or a receiver shall be appointed for the Lessee, for any Item of Leased Equipment or for a substantial part of the Lessee's property without its consent and any such trustee or receiver shall not be dismissed within a period of 60 days; or bankruptcy, reorganization or insolvency proceedings shall be instituted against the Lessee and shall not be dismissed within a period of 60 days; or

(e) The Lessee shall (except as expressly permitted by the provisions of this Lease) attempt to remove, sell, transfer, encumber, part with possession of, assign or sublet any Item of Leased Equipment; or

(f) Default shall occur in the payment (beyond any period of grace permitted with respect thereto) of the principal of or interest on

any indebtedness of the Lessee for borrowed money outstanding in an amount of five million dollars or more when the same shall become due and payable, if as a result of such default any person would have a right to cause such indebtedness to become due prior to its stated maturity.

SECTION 18. Remedies.

(a) Upon the occurrence of any Event of Default and so long as the same shall be continuing, the Lessor may, at its option, declare this Lease to be in default by written notice to such effect given to the Lessee, and at any time thereafter, the Lessor may exercise one or more of the following remedies, as the Lessor in its sole discretion shall lawfully elect:

(1) Proceed by appropriate court action, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof;

(2) By notice in writing terminate this Lease, whereupon all rights of the Lessee to the use of the Leased Equipment shall absolutely cease and terminate but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessee, if so requested by the Lessor, shall at its expense promptly return the Leased Equipment to the possession of the Lessor pursuant to Lessor's instructions set forth under the heading Return of Equipment in Exhibit C hereto and in the condition required upon the return thereof pursuant to and in accordance with the terms hereof, or the Lessor, at its option, may enter upon the premises where the Leased Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise. The Lessee shall, without further demand, forthwith pay to the Lessor an amount equal to any unpaid Rent due and payable for all periods up to and including the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default, plus, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the Casualty Value of the Leased Equipment then subject to this Lease, computed as of the Basic Rent Date following the date on which the Lessor has declared this Lease to be in default. Following the return of the Leased Equipment to the Lessor pursuant to this paragraph (2) the Lessor shall proceed to sell the Leased Equipment in such manner as it shall deem appropriate. The proceeds of such sale shall be applied by the Lessor (A) first, to pay all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor as a result of the default and the exercise of its remedies with respect thereto, (B) second, to pay to the Lessor an amount equal to any unpaid Rent due and payable and the Casualty Value, to the extent not previously paid, and (C) third, to reimburse the Lessee for the Casualty Value to the extent previously paid by the Lessee as liquidated damages. Any surplus remaining thereafter shall be retained by the Lessor. To the extent

that all Basic Rent then due and payable with respect to the Leased Equipment and the Casualty Value in respect of such Leased Equipment have not been previously paid, the Lessee shall forthwith pay to the Lessor the sum of (i) the amount by which (X) the sum of (a) all Basic Rent then due and payable with respect to the Leased Equipment, (b) the Casualty Value or portion thereof not theretofore paid, and (c) the amount payable under clause (A) of the preceding sentence, exceeds (Y) the sale price of the Leased Equipment, and (ii) interest at the Late Payment Rate on the full amount of the Casualty Value, computed from the date the Casualty Value is payable hereunder until such Casualty Value is paid by the Lessee. During the continuance of any Event of Default, and if so requested by the Lessor in writing, Lessee will store the Leased Equipment for the period of time and otherwise as set forth in Section 24 hereof.

(b) The Lessee shall be liable for all costs, charges and expenses, including reasonable legal fees and disbursements, incurred by the Lessor by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto.

(c) No remedy referred to herein is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to the Lessor at law or in equity. No express or implied waiver by the Lessor of any Default or Event of Default hereunder shall in any way be, or be construed to be, a waiver of any future or subsequent Default or Event of Default. The failure or delay of the Lessor in exercising any rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies and any single or partial exercise of any particular right by the Lessor shall not exhaust the same or constitute a waiver of any other right provided herein.

SECTION 19. Special Terms and Modifications.

Any special terms or modifications set forth in Exhibit C hereto shall be applicable to this Lease as though fully set forth herein.

SECTION 20. Notices.

All communications and notices provided for herein shall be in writing and shall become effective when deposited in the United States mail, with proper postage for first-class mail, prepaid, addressed (a) if to the Lessor, at P.O. Box 30007, Salt Lake City, Utah 84125, Attention: Trust Department, Corporate Trust Division (with copies to (1) Itel Corporation, Financial Services Group, at One Embarcadero Center, San Francisco, California 94111, Attention: Contract Administration, (2) the Trustee, at 130 John Street, New York, New York 10038, Attention: Corporate Trust and Agency Division and (3) each Beneficiary, at its

address set forth in Exhibit C hereto), and (b) if to the Lessee, at its address set forth on the signature page hereof.

SECTION 21. Successors, Assigns and Indemnified Parties.

This Lease, including all agreements, covenants, representations, indemnities and warranties, shall be binding upon and inure to the benefit of, and may be enforced by, (1) the Lessor and its successors, assigns, agents, servants and personal representatives, and, where the context so requires, (i) each Beneficiary, and (ii) the Trustee, as assignee and secured party, and the successors, assigns, agents, servants and personal representatives of each Beneficiary and the Trustee, as assignee and secured party, and (2) the Lessee and its successors and, to the extent permitted hereby, assigns. With respect to clause (b) of the proviso to Section 13 hereof, the willful misconduct or gross negligence of the Lessor or any person entitled to indemnity thereunder shall not affect the rights of any other person indemnified under such Section 13.

SECTION 22. Voluntary Termination.

(a) The Lessee shall have the right, at any time on or after the Fortieth Basic Rent Date, on at least 180 days' prior written notice to the Lessor, to terminate this Lease with respect to any Item or Items of Leased Equipment, such termination to be effective on the Basic Rent Date next following the expiration of the 180-day notice period (the Termination Date); provided, however, that no Event of Default shall have occurred and be continuing hereunder, that such Items shall have become obsolete or surplus to the Lessee's requirements, and that Lessee shall not have the right to terminate this Lease during any Lease extension period. During the period from the giving of such notice until the Termination Date, the Lessor may, and the Lessee, as agent for the Lessor, shall, use their best efforts to obtain bids for the purchase of such Items of Leased Equipment. The Lessee shall certify to the Lessor in writing the amount of each bid received by the Lessee and the name and address of the party submitting such bid. The Lessee may utilize agents for purposes of fulfilling its obligations set forth in this Section. On the Termination Date, the Lessor shall sell such Items of Leased Equipment, without recourse or warranty, for cash to whosoever shall have submitted the highest bid prior to such date and shall transfer to such purchaser all of the Lessor's right, title and interest in and to such Items, and thereupon the Lessee shall deliver such Items of Leased Equipment so sold to the Lessor in accordance with the terms of Section 5 of this Lease. The Lessor shall certify in writing to the Lessee (i) the amount of such total sale price, (ii) the expenses incurred by the Lessor in connection with such sale, and (iii) that such total sale price represents the highest bid received by the Lessor for the purchase of such Items. The total sale price realized at such sale shall be retained by the Lessor, and, in addition, on the Termination Date, the Lessee shall pay to the Lessor the Basic Rent payment payable on such date and the amount, if any, by which (A) the Termination Value of such Items, computed as of the Termination Date, exceeds (B) the proceeds of such sale

less all expenses incurred by the Lessor in selling such Items. In the event no such sale takes place, the Lessee shall pay to the Lessor the Termination Value of such Items, computed as of the Termination Date, plus any expenses incurred by the Lessor in connection with attempting to arrange such sale and the Basic Rent payment then due. Upon payment of all amounts required to be paid by the Lessee pursuant to this paragraph (a), the obligation of the Lessee for all Basic Rent accruing hereunder with respect to such Items due and payable after, but not on or before, the Termination Date shall cease.

(b) Notwithstanding the foregoing, upon receipt of all bona fide bids for the purchase of such Items, the Lessor may, with the prior written consent of the Trustee, elect not to sell such Items to the highest bidder on the Termination Date, in which case the Lessee shall deliver such Items to the Lessor in accordance with the terms of Section 5 of this Lease. In addition, on the Termination Date, the Lessee shall pay to the Lessor the Basic Rent due on such Termination Date and the amount, if any, by which the Termination Value of such Items plus the amount of any expenses incurred by the Lessor directly or indirectly in connection therewith exceeds such highest bid. Upon such redelivery and the payment of such amount, if any, the obligation of the Lessee to pay all Basic Rent accruing under this Lease with respect to such Items due and payable after, but not on or before, the Termination Date shall cease.

(c) Notwithstanding the foregoing, provided that no Event of Default shall have occurred and be continuing hereunder, and provided further that the Lessor has not notified the Lessee in writing of the Lessor's election under paragraph (b) above, upon written notification given to the Lessor not less than 30 days prior to the Termination Date, the Lessee may elect to rescind the Lessee's notice of termination, in which case this Lease shall not terminate as set forth in this Section, but shall continue in full force and effect as though no such notice of termination had been given by the Lessee.

SECTION 23. Right of First Refusal.

(a) Provided that no Event of Default shall have occurred and be continuing hereunder, the Lessor agrees that for 180 days following the expiration of the term of this Lease or any extension thereof with respect to any Item of Leased Equipment, it will not sell or enter into a contract to sell such Item of Leased Equipment unless the Lessor shall have given the Lessee at least 20 Business Days' prior written notice of such sale, specifying the sale price and the terms of such sale, and the Lessee shall have the opportunity during the period ending five business days prior to such proposed date of sale to purchase such Item of Leased Equipment at the same price and on the same terms as specified in such notice; provided, however, that in no event shall such sale price be less than the Fair Market Value of such Item of Leased Equipment. If the Lessee shall fail to purchase such Item of Leased Equipment during such period then the

Lessor shall be free to sell the same for a period of 45 days at the sale price and upon the terms specified in such written notice. If the Lessor fails to sell such Item of Leased Equipment at said price and upon said terms during such 45 day period, then such Item of Leased Equipment shall then again become subject to the provisions of this Section 23(a).

(b) In the event the Lessee exercises such right of first refusal to purchase any Item of Leased Equipment, then, upon payment of the purchase price, the Lessor shall, upon request of the Lessee, execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Item of Leased Equipment is free and clear of all Liens by or in favor of any Person claiming by, through or under the Lessor or the Trustee) for such Item of Leased Equipment, and such other documents as may be required to release such Item of Leased Equipment from the terms and scope of this Lease and from the lien of the Indenture and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

SECTION 24. Storage Agreement.

At the expiration of this Lease or any extension thereof, Lessee shall provide Lessor space for storage of the Equipment at a location on Lessee's property which does not subject the Leased Equipment to unusual hazard for a period of up to two months at no cost to Lessor for such space; provided, however, that Lessee shall otherwise have no other responsibility to Lessor for the Equipment during the period of storage including, without limitation, no obligation to protect or maintain the Equipment or to provide any security for the preservation of the Equipment, and provided, further, that Lessor shall and does indemnify and hold lessee harmless from any and all liability which Lessee may incur on account of the Equipment being present on Lessee's property, including, but not limited to, liability for taxes assessed on the Equipment or because of its storage on Lessee's property, except that Lessee shall be liable for any personal injury or property damage caused by Lessee's gross negligence or willful misconduct. Lessee agrees that Lessor and Lessor's agents shall have access to the Equipment for demonstration and inspection purposes during Lessee's normal business hours.

SECTION 25. Amendments and Miscellaneous.

(a) The terms of this Lease shall not be waived, altered, modified, amended, supplemented or terminated in any manner whatsoever except by written instrument signed by the Lessor and the Lessee; provided, however, that no such waiver, alteration, modification, amendment or supplement shall make any change, and no termination shall be made, which is prohibited by the Indenture or any Supplement without the consent of the Trustee.

(b) On expiration or termination of this Lease in accordance with the terms hereof, the provisions of this Lease shall terminate except

for those contained in Section 15; provided, however, that all rights arising hereunder prior to such expiration or termination shall remain in full force and effect and shall not be affected by such expiration or termination.

(c) Any provision of this Lease which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

(d) This Lease shall constitute an agreement of lease and nothing herein shall be construed as conveying to the Lessee any right, title or interest in or to the Leased Equipment, except as lessee only.

(e) This Lease shall be governed by, and construed in accordance with, the laws of the State of New York.

(f) The division of this Lease into sections, the provision of a table of contents and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Lease.

(g) This Lease may be executed in any number of counterparts and by the different parties hereto on separate counterparts, all of which together shall constitute a single instrument, but the counterpart or counterpart set delivered to the Trustee shall be marked the "Original" and all other counterparts shall be marked "Duplicate Originals". No security interest in this Lease may be created through the transfer or possession of any counterpart set other than the "Original", but any "Duplicate Original" counterpart or counterpart set shall be valid evidence of this Lease for any other purpose.

(h) Although this Lease is dated as of the date first above written for convenience, the actual dates of execution hereof by the parties hereto are respectively the dates set forth under the signatures hereto, and this Lease shall be effective on the latest of such dates.

(i) The Lessor and the Lessee agree that for Federal income tax purposes the Lessor shall be the owner of the Equipment and the Lessee shall be the lessee thereof, and neither the Lessor nor any Beneficiary shall elect to treat the Lessee as having acquired the Equipment for investment tax credit purposes pursuant to Section 48(d) of the Code.

IN WITNESS WHEREOF, the parties hereto have each caused this Lease to be duly executed by their respective officers thereunto duly authorized.

By FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity, but solely as Corporate Trustee and on behalf of the Individual Trustee,
as Corporate Trustee

By _____
Authorized Officer

Date October 13, 1978

KENNECOTT COPPER CORPORATION,
as Lessee

By _____
Vice President

Date OCTOBER 19, 1978

Address: 161 East 42nd Street
New York, New York 10017
Attention: Vice President

The undersigned hereby certifies that the person executing this Lease on behalf of the Lessee holds the indicated office, was duly elected thereto and at all relevant times has been a duly qualified and acting officer of the Lessee.

_____

Date _____

STATE OF UTAH, )
)
COUNTY OF SALT LAKE, )

On this 13 day of October 1978 before me personally appeared WILLIAM C. McGREGOR, to me personally known, who, being by me duly sworn, says that he is an authorized officer of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, 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.

Notary Public

[Notary Seal] My Commission Expires November 15, 1981

My Commission expires

STATE OF NEW YORK, )
)
COUNTY OF NEW YORK, )

On this 19 day of October 1978 before me personally appeared A.T. ELLIS, to me personally known, who being by me duly sworn, says that he is a Vice President of KENNECOTT COPPER 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.

Notary Public

[Notary Seal]

My Commission expires

HELEN WATERS
NOTARY PUBLIC, State of New York
No. 31-4167650
Qualified in New York County
Commission Expires March 30, 19--

**EXHIBIT A**
**to Lease**

DESCRIPTION OF EQUIPMENT

| Group of Equipment | Quantity | Description | Identifying Numbers | Estimated Lessor's Cost Per Item |
|---|---|---|---|---|
| 1 | 3 | Ore Haulage Switch Locomotives - 1500 H.P. Diesel Electric Four Traction Motors | 120-122 | $475,000 |
| O/H | 7 | Pit Production Locomotives 3000 H.P. Diesel Electric Six Traction Motor | 101-107 | $700,000 |
| Mine | 10 | Pit Production Locomotives 2300 H.P. Diesel Electric Four Traction Motor | 790-799 | $575,000 |
| Mine | 2 | Pit Support Locomotives | 701,704 | $500,000 |

| | Cost $000 | Month's Rental | No. Rented Per Item |
|---|---|---|---|
| 3 | 1,425 | $ 10835.18 | $ 3,611.73 |
| 7 | 4 900 | 37257.81 | 5,322.54 |
| 10 | 5 750 | 43720.90 | 4,372.09 |
| 2 | 1,000 | 7 603.64 | 3 815.32 |
| 22 | 13,075 | 99,417.53 | |

EXHIBIT B
to Lease

CERTIFICATE OF ACCEPTANCE NO. ___

under

EQUIPMENT LEASE dated as of September 1, 1978 (the Lease) between FIRST SECURITY BANK OF UTAH, N.A. and THOMAS C. CUTHBERT, as lessor (the Lessor), not in their individual capacities, but solely as trustees under a Trust Agreement dated as of September 1, 1978 between them and the Beneficial Owners therein named and Kennecott Copper Corporation, as lessee (the Lessee).

1. Items of Equipment

The Lessee hereby certifies that the Items of Equipment set forth and described in Schedule 1 hereto (which Schedule includes the amount of the Lessor's Cost of each such Item), constituting Items of Leased Equipment of the Group of Equipment indicated below, have been delivered to the location indicated below, inspected by the Lessee, found to be in good order and accepted as Items of Leased Equipment under the Lease, all on the Date of Acceptance set forth below:

Group of Equipment:

Location of Items of Equipment:

Date of Acceptance:

2. Representations by the Lessee

The Lessee hereby represents and warrants to the Lessor, each Beneficiary, the Trustee, and the Lender, as such terms are defined in the Lease and the Participation Agreement, that on the Date of Acceptance set forth above:

(1) The Lessee has satisfied or complied with all requirements set forth in the Participation Agreement, in any certificate of the Lessee and in the Lease to be satisfied or complied with on or prior to such Date of Acceptance.

(2) No Default or Event of Default under the Lease has occurred and is continuing on such Date of Acceptance.

(3) The Lessee has obtained, and there are in full force and effect, such insurance policies with respect to each Item of Leased Equipment accepted pursuant hereto as are required to be obtained under the terms of the Lease.

KENNECOTT COPPER CORPORATION,
as Lessee

By _____

Accepted on the Date of Acceptance set forth in paragraph 1 above on behalf of the Lessor: FIRST SECURITY BANK OF UTAH, N.A. and THOMAS C. CUTHBERT, not in their individual capacities, but solely as trustees under a Trust Agreement dated as of September 1, 1978 between them and First Security Bank of Utah, N A. and Crocker National Bank,
as Lessor

[LESSEE],
as Authorized Representative

By _____

EXHIBIT B
to Lease

SCHEDULE 1 TO

CERTIFICATE OF ACCEPTANCE NO. ___

Description of Equipment and Lessor's Cost:

| Quantity | Manufacturer or Seller | Description | Identification or Serial Number | New or Used | Lessor's Cost |
|---|---|---|---|---|---|

Total $_____

EXHIBIT C
to Lease

Group of Equipment 1
(18-year Basic Lease Term)

| | |
|---|---|
| Date of Lease: | As of September 1, 1978 |
| Beneficiaries: | First Security Bank of Utah, N.A.<br>79 South Main Street<br>Salt Lake City, Utah 84111<br>Attn: E. S. Cummings<br><br>Crocker National Bank<br>79 New Montgomery Street<br>San Francisco, CA 94105<br>Attn: Factoring/Commercial<br>Finance Division |
| Rent Commencement Date: | With Respect to any Item of Leased Equipment, the date on which the Lessor makes any payment to the Seller of such Item. |
| Late Payment Rate: | A rate per annum equal to 1.5% over the Long-Term Debt Rate of 9-3/4% which may change in accordance with the provisions set forth in Section 14(e) of the Participation Agreement, but in no event at a rate per annum greater than that permitted by applicable law |
| Basic Rent Dates: | Commencing on the First Basic Rent Date and ending on the Last Basic Rent Date, April 15, July 15, October 15 and January 15 of each year. |
| First Delivery Date: | October 1, 1978 |
| Final Delivery Date: | December 31, 1978 |
| Interim Rent Date: | January 15, 1979 |
| First Basic Rent Date: | April 15, 1979 |
| Last Basic Rent Date: | January 15, 1997 |
| Expiration Date: | January 15, 1997 |

EXHIBIT C
to Lease

| | | |
|---|---|---|
| Basic Lease Rate Factor: | Payment Nos. 1-24 | 2.4578%* |
| | Payment Nos. 25-48 | 2.0111%* |
| | Payment Nos. 49-72 | 1.1173%* |
| Daily Lease Rate Factor: | 1/360th of 120% of the prime interest rate of Bank of Montreal (California) (being the best per annum rate of interest charged by such Bank to its prime large commercial customers on short-term unsecured borrowings) in effect on the Rent Commencement Date with respect to an Item of Leased Equipment and as adjusted from time to time thereafter to reflect all changes in such prime interest rate effective on the next business day following each change in such prime interest rate. | |
| Lease Extension Periods: | Five extension periods of three years each. | |
| Equipment Marking: | Ownership subject to a Security Agreement filed pursuant to Section 20c of the Interstate Commerce Act. | |
| Return of Equipment: | The Lessee will at its expense deliver the Leased Equipment to the railroad siding at Lark, Utah. Expenses of transporting the Leased Equipment from Lark, Utah shall be borne by Lessor. | |
| Investment Credit Percentage: | 10% | |
| Depreciable Life: | A 12-year depreciable life pursuant to section 167(m) of the Code for an asset described in Asset Guideline Class No. 00.25. | |

*The Basic Lease Rate Factors are based upon an assumed long term debt rate (Long-Term Debt Rate) of 9-3/4%, which may change in accordance with the provisions set forth in Section 14(e) of the Participation Agreement. If the Long-Term Debt Rate does change, the parties hereto agree to execute such amendments and other documents as may be necessary to adjust the Basic Lease Rate Factors and all other terms dependent upon the Long-Term Debt Rate, including but not limited to the Casualty Values and Termination Values in order to reflect any such change in the Long-Term Debt Rate.

EXHIBIT C
to Lease

| | |
|---|---|
| Depreciation Method: | 200%-declining balance method switching to the sum-of-the-years digits method when most beneficial to the Beneficiary and without the prior consent of the Commissioner of Internal Revenue utilizing either the "modified half-year" or "half-year" convention pursuant to Reg. section 1.167(a)-11(c)(2) and taking into account the Net Salvage Value of the Leased Equipment. |
| Net Salvage Value: | 0% |

EXHIBIT D
to Lease

Group of Equipment 1

The Casualty Value and Termination Value of each Item of Leased Equipment shall be the percentage of Lessor's Cost of such Item set forth opposite the applicable rent payment:

| Interim Rent Date and Basic Rent Payment Number | | Casualty Value (a) (b) | Termination Value (a) (b) |
|---|---|---|---|
| | 1979 | | |
| Interim Rent Date | 0 | 83.7597 % | % |
| | 1 | 83.7991 | |
| | 2 | 83.7500 | |
| | 3 | 83.6316 | |
| | 1980 | | |
| | 4 | 83.4427 | |
| | 5 | 83.2028 | |
| | 6 | 82.8868 | |
| | 7 | 82.5096 | |
| | 1981 | | |
| | 8 | 82.0700 | |
| | 9 | 81.5834 | |
| | 10 | 81.0261 | |
| | 11 | 80.4106 | |
| | 1982 | | |
| | 12 | 79.7357 | |
| | 13 | 79.0142 | |
| | 14 | 78.2280 | |
| | 15 | 77.3869 | |
| | 1983 | | |
| | 16 | 76.4898 | |
| | 17 | 75.5468 | |
| | 18 | 74.5454 | |
| | 19 | 73.4928 | |
| | 1984 | | |
| | 20 | 72.3881 | |
| | 21 | 71.2384 | |
| | 22 | 70.0372 | |
| | 23 | 68.7890 | |
| | 1985 | | |
| | 24 | 67.4928 | |
| | 25 | 66.5998 | |
| | 26 | 65.6650 | |
| | 27 | 64.6924 | |
| | 1986 | | |
| | 28 | 63.6812 | |
| | 29 | 62.6353 | |
| | 30 | 61.5524 | |
| | 31 | 60.4345 | |
| | 1987 | | |
| | 32 | 59.2833 | |
| | 33 | 58.1031 | |

EXHIBIT D
to Lease

| Basic Rent Payment Number | Casualty Value (a) (b) | Termination Value (a) (b) |
|---|---|---|
| 1988 | | |
| 36 | 54.3873 | |
| 37 | 53.0879 | |
| 38 | 51.7599 | |
| 39 | 50.4060 | |
| 1989 | | |
| 40 | 49.0314 | 49.0314 |
| 41 | 47.6269 | 47.6269 |
| 42 | 46.2106 | 46.2106 |
| 43 | 44.7772 | 44.7772 |
| 1990 | | |
| 44 | 43.3254 | 43.3254 |
| 45 | 41.8493 | 41.8493 |
| 46 | 40.3716 | 40.3716 |
| 47 | 38.8834 | 38.8834 |
| 1991 | | |
| 48 | 37.3843 | 37.3843 |
| 49 | 36.7588 | 36.7588 |
| 50 | 36.1430 | 36.1430 |
| 51 | 35.5303 | 35.5303 |
| 1992 | | |
| 52 | 34.9207 | 34.9207 |
| 53 | 34.3077 | 34.3077 |
| 54 | 33.7006 | 33.7006 |
| 55 | 33.0942 | 33.0942 |
| 1993 | | |
| 56 | 32.4879 | 32.4879 |
| 57 | 31.8760 | 31.8760 |
| 58 | 31.2721 | 31.2721 |
| 59 | 30.6697 | 30.6697 |
| 1994 | | |
| 60 | 30.0690 | 30.0690 |
| 61 | 29.4603 | 29.4603 |
| 62 | 28.8466 | 28.8466 |
| 63 | 28.2208 | 28.2208 |
| 1995 | | |
| 64 | 27.5829 | 27.5829 |
| 65 | 26.9257 | 26.9257 |
| 66 | 26.2626 | 26.2626 |
| 67 | 25.5867 | 25.5867 |
| 1996 | | |
| 68 | 24.8978 | 24.8978 |
| 69 | 24.1887 | 24.1887 |
| 70 | 23.4728 | 23.4728 |
| 71 | 22.7430 | 22.7430 |
| 1997 | | |
| 72 | 20.0000 | .0000 |

Exhibit No. 3

# TRUST AGREEMENT

dated as of September 1, 1978,

among

CROCKER NATIONAL BANK,

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION,

and

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION,
and
THOMAS C. CUTHBERT, as trustees hereunder

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Kennecott Copper Corporation Lease Financing
Number 2 of 1978

THIS TRUST AGREEMENT dated as of September 1, 1978, among CROCKER NATIONAL BANK, FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION (each hereinafter called a Beneficial Owner) and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking association (hereinafter called the Corporate Trustee), and THOMAS C. CUTHBERT (hereinafter called the Individual Trustee, and, together with the Corporate Trustee, the Owner Trustees).

WHEREAS the Beneficial Owners desire to create pursuant hereto a trust for the purposes of acquiring certain equipment, entering agreements for the financing of a portion of the purchase price thereof and leasing such equipment to Kennecott Copper Corporation (hereinafter called the Lessee); and

WHEREAS the Owner Trustees are willing to accept the duties and obligations imposed hereby on the terms and conditions set forth herein.

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

## ARTICLE I

## AUTHORITY TO EXECUTE THE PURCHASE DOCUMENTS, THE LEASE, THE EQUIPMENT TRUST AGREEMENT ETC.; DECLARATION OF TRUST

SECTION 1.01. The Beneficial Owners hereby authorize and direct the Owner Trustees:

(a) to execute and deliver the Equipment Lease dated as of the date hereof (hereinafter called the Lease), between the Owner Trustees, as lessor therein, and the Lessee;

(b) to execute and deliver the Equipment Trust Agreement dated as of the date hereof (hereinafter called the Equipment Trust Agreement) and the Collateral Assignment of Lease dated as of the date hereof (hereinafter called the Lease Assignment), each between the Owner Trustees and United States Trust Company of New York (herein called the Trustee);

(c) to execute and deliver the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) among the Lessee, the parties hereto, and the Lender therein named);

(d) to execute and deliver the documents (herein called the Purchase Documents) necessary to purchase the equipment described in the Lease (any and all such equipment being hereinafter called the Units);

(e) to execute and deliver each document referred to in the Equipment Trust Agreement, the Participation Agreement or the Lease which the Owner Trustees are to execute;

(f) to accept delivery of each Unit from time to time delivered to the Owner Trustees under and in accordance with the terms of the Purchase Documents and to accept delivery of any and all bills of sale and invoices covering the Units (it being understood that such acceptance may be made by the Lessee as agent for the Owner Trustees);

(g) to pay to the manufacturer of the Units in payment of the purchase price of the Units, such funds as the Beneficial Owners may from time to time furnish the Owner Trustees for such purposes;

(h) subject to the terms of this Trust Agreement, to exercise the rights and perform the duties of the purchaser under the Purchase Documents, of lessor under the Lease and of obligor under the Equipment Trust Agreement; and

(i) to take such other action in connection with any of the foregoing as the Beneficial Owners may from time to time jointly direct.

SECTION 1.02. The Owner Trustees hereby declare that they will hold all estate, right, title and interest of the Owner Trustees in and to the Units, the Lease, the Purchase Documents and the Equipment Trust Agreement, including, without limitation, all amounts of rent, insurance proceeds, indemnity and other payments of any kind for or with respect to any Units, (all such estate, right, title and interest being hereinafter sometimes called the Trust Estate), upon the trusts hereinafter set forth for the use and benefit of the Beneficial Owners, pro rata in accordance with their respective interests in the Trust Estate, subject, however to the obligations of the Owner Trustees to make payments to the Trustee in accordance with the terms of the Equipment Trust Agreement and subject to the interests of the Trustee in the Trust Estate.

SECTION 1.03. Each Beneficial Owner shall pay to the Owner Trustees in immediately available funds on or before each Closing Date (as such term is defined in the Participation Agreement) sufficient funds to enable the Owner Trustees to pay to the manufacturer under the Purchase Documents the amounts required to be paid by the Owner Trustees pursuant thereto. The payments hereinbefore provided for shall be made by each Beneficial Owner to the Owner

Trustees or for the Owner Trustees' account at such place as shall be designated by the Owner Trustees, all in accordance with the terms and conditions of the Participation Agreement.

SECTION 1.04. The respective interests of the Beneficial Owners in the Trust Estate shall be in proportion to the actual investments of each in Units of equipment under the Participation Agreement.

## ARTICLE II

## RECEIPT, DISTRIBUTION AND APPLICATION OF INCOME FROM THE TRUST ESTATE

SECTION 2.01. Except as otherwise provided in section 2.04 hereof, the Owner Trustees shall apply each payment of rent or other payment received by them under the Lease as follows:

(a) Prior to payment in full of the principal of and premium, if any, and interest on the certificates (hereinafter called the Certificates) issued under the Equipment Trust Agreement, each such payment shall be applied to the payment of the Owner Trustees' obligations under and pursuant to the Equipment Trust Agreement to the extent such payments are not otherwise discharged.

(b) After application in accordance with subsection (a) of this section, the balance, if any, shall be paid to the Beneficial Owners, in proportion to their respective interests in the Trust Estate.

SECTION 2.02. Each payment at any time received by the Owner Trustees from or on behalf of the Lessee pursuant to the Lessee's indemnities contained in the Lease shall be applied, first, to any cost or expense or liability incurred or loss suffered by the Owner Trustees, and second, to payment to the Beneficial Owners, in proportion to their respective interests in the Trust Estate.

SECTION 2.03. Except as otherwise provided in section 2.04 hereof, any payment received by the Owner Trustees, other than payments referred to in the previous sections of this Article II, for which provision as to the application thereof is made in the Lease or the Equipment Trust Agreement shall be applied to the purpose for which such payment was made in accordance with the terms of the Lease or the Equipment Trust Agreement ; and any payment received by the Owner Trustees for which no provision as to the application thereof is made in the Lease or the Equipment Trust Agreement or in this Article II shall, unless the Beneficial Owners shall have jointly

instructed the Owner Trustees otherwise in writing, be paid to the Beneficial Owners, in proportion to their respective interests in the Trust Estate.

SECTION 2.04. Except as otherwise provided in section 2.02 hereof, each payment received and amount realized by the Owner Trustees after an event of default under the Equipment Trust Agreement shall have occurred and be continuing and after the Trustee shall have declared the Certificates issued thereunder to be due and payable (including any amount realized by the Owner Trustees from the exercise of any remedies pursuant to the Lease), as well as all funds then held or thereafter received by the Owner Trustees as part of the Trust Estate while such event of default shall be continuing shall be applied in accordance with the provisions of the Lease as to damages upon default; the amounts realized by the Owner Trustees as damages under the Lease shall be applied as follows:

(a) That portion of any sums available for distribution pursuant to this section 2.04 as shall equal the lesser of (i) the aggregate amount of all such sums or (ii) the unpaid principal amount of the Certificates and the accrued but unpaid interest and premium, if any, owing on the Certificates to the date of distribution by the Owner Trustees plus all other amounts owing to the Trustee by the Owner Trustees under the Equipment Trust Agreement, shall be paid by the Owner Trustees to the Trustee in discharge of the Owner Trustees' obligations under and pursuant to the Equipment Trust Agreement; and

(b) All amounts remaining after payment in full of the amounts required to be paid in accordance with subsection (a)(ii) of this section shall be applied by the Owner Trustees, first, to the reimbursement of the Owner Trustees for all expenses not reimbursed under this Trust Agreement, the Lease or otherwise, and second, to payment to the Beneficial Owners, in proportion to their respective interests in the Trust Estate.

SECTION 2.05. Except as otherwise provided in sections 2.02 and 2.04 hereof:

(a) all payments received and amounts realized by the Owner Trustees under the Lease or otherwise with respect to any Unit (including, without limitation, all amounts realized upon any sale of such Unit after the termination of such Lease) to the extent received or realized at any time after payment in full of the principal of and interest on the Certificates plus all other amounts owing under the Equipment Trust Agreement to the Trustee by the Owner Trustees (subject to the limitations of section 6.2 thereof), and

(b) moneys not included in subsection (a) of this section or remaining as part of the Trust Estate after payment in full of

amounts required to be paid in accordance with subsection (a) of this section,

shall be applied first, to the reimbursement of the Owner Trustees for all expenses not reimbursed under this Trust Agreement, the Lease or otherwise and second, to payment to the Beneficial Owners, in proportion to their respective interests in the Trust Estate.

SECTION 2.06. The Owner Trustees shall make payments to (a) each Beneficial Owner pursuant to this Article II by forwarding the amount to be paid to such Beneficial Owner at its address: in the case of Crocker National Bank, at 79 New Montgomery Street, San Francisco, California 94105, attention of Factoring/Commercial Finance; and in the case of First Security Bank of Utah, National Association, at 79 South Main Street, Salt Lake City, Utah 84111, attention of C.S. Cummings; or as any Beneficial Owner may otherwise direct in writing, and (b) the Trustee pursuant to this Article II by paying the amount to be paid to the Trustee in the manner specified in the Equipment Trust Agreement.

SECTION 2.07. Notwithstanding anything in this Article II to the contrary, any payments and amounts received by the Owner Trustees which are required to be paid in any manner specified in the Equipment Trust Agreement shall be paid in such manner.

## ARTICLE III

## DUTIES OF THE OWNER TRUSTEES

SECTION 3.01. In the event the Corporate Trustee shall have knowledge of an Event of Default under the Equipment Trust Agreement or the Lease, the Owner Trustees shall take such action with respect to such Event of Default as shall be directed by joint written notice to the Owners Trustees from the Beneficial Owners, including, without limitation, the application of moneys furnished by the Beneficial Owners and moneys in the Trust Estate available for the purpose in accordance with Article II hereof to the payment of the principal of and interest and premium, if any, on the Certificates, subject, however, in all respects to the terms and provisions of the Equipment Trust Agreement and the rights of the Trustee thereunder, and subject further to the terms of section 3.03 hereof. For all purposes of this Trust Agreement, the Corporate Trustee shall not be deemed to have knowledge of such an Event of Default during the period when Certificates are outstanding under the Equipment Trust Agreement until it receives written notice from a Beneficial Owner, the Trustee or the Lessee.

SECTION 3.02. Subject in all respects to the terms and provisions of the Equipment Trust Agreement and the Lease and the rights of the Trustee and the Lessee, respectively, thereunder, and subject further to the terms of sections 3.01 and 3.03 hereof, upon the joint written request at any time and from time to time of the Beneficial Owners, the Owner Trustees will take such of the following actions as may be specified in such request:

(a) give such notice or direction or exercise such right or power under the Lease or the Equipment Trust Agreement with respect thereto or to any Unit; and

(b) after the expiration or earlier termination of the Lease with respect to a Unit, convey all the Owner Trustees' right, title and interest in and to such Unit for such account, on such terms and to such purchaser or purchasers as shall be designated in such request, or retain, lease or otherwise dispose of such Unit as shall be designated in such request; and

(c) execute and file any and all required fiduciary tax returns.

SECTION 3.03. Neither Trustee shall be required to take any action under section 3.01 or section 3.02 hereof unless the Owner Trustees shall have been indemnified by the Beneficial Owners, in manner and form satisfactory to the Owner Trustees, against any liability , cost or expense (including counsel fees) which may be incurred in connection with such action. Neither Trustee shall be required to take any action under section 3.01 or section 3.02 hereof, nor shall any other provision of this Trust Agreement be deemed to impose a duty on the Owner Trustees to take any action, if the Owner Trustees shall determine, or shall have been advised by counsel, that such action is likely to result in personal liability or is contrary to the terms of the Lease or the Equipment Trust Agreement or is otherwise contrary to law.

SECTION 3.04. The Owner Trustees shall not have any duty or obligation to manage, control, use, sell, dispose or otherwise deal with any Unit or any other part of the Trust Estate, or to otherwise take or refrain from taking any action under, or in connection with, the Lease or the Equipment Trust Agreement, except as expressly provided by the terms of this Trust Agreement or as expressly provided in joint written instructions from the Beneficial Owners duly given pursuant to the terms of section 3.01 or section 3.02 hereof; and no implied duties or obligations shall be read into this Trust Agreement against the Owner Trustees.

SECTION 3.05. The Owner Trustees agree that they will not manage, control, use, sell, dispose or otherwise deal with any Unit or any other part of the Trust Estate except (a) as required by

the terms of the Lease or the Equipment Trust Agreement or (b) in accordance with the powers granted to, or the authority conferred upon, the Owner Trustees pursuant to this Trust Agreement or (c) in accordance with joint written instructions duly given by the Beneficial Owners pursuant to section 3.01 or section 3.02 hereof.

SECTION 3.06. The Owner Trustees shall deliver to each Beneficial Owner a copy of any written notice which either of them receives pursuant to the Equipment Trust Agreement or the Lease and will notify each Beneficial Owner of any legal or tax proceedings instituted against the Owner Trustees with respect to the Lease or the Units.

SECTION 3.07. Nothing contained in this Article III shall limit in any manner (a) the obligation of the Owner Trustees to perform and observe all the terms and provisions of the Equipment Trust Agreement imposed upon the borrower thereunder or (b) the obligations of the Owner Trustees set forth in Article II hereof.

## ARTICLE IV

## THE OWNER TRUSTEES

SECTION 4.01. The Owner Trustees accept the trusts hereby created and agree to perform the same but only upon the terms of this Trust Agreement. The Owners Trustees shall not be answerable or accountable to the Beneficial Owners under any circumstances except for their own willful misconduct or gross negligence and except that, insofar as in performing their undertakings set forth in this Trust Agreement the Owner Trustees actually receive funds and insofar as the Owner Trustees receive express written instructions from the Beneficial Owners, they shall be held to the same degree of care and skill in handling such funds and in complying with such instructions as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

SECTION 4.02. Except in accordance with written instructions duly furnished pursuant to section 3.02 hereof, and without limitation of the generality of sections 3.04 and 3.07 hereof, the Owner Trustees shall have no duty:

(a) to see to any recording, filing or depositing of the Lease or the Equipment Trust Agreement or of this Trust Agreement, or of any amendments or supplements thereto or of any other documents contemplated thereby or to see to the maintenance of any such recording or filing or depositing or to any rerecording, refiling or redepositing of any thereof;

(b) to see to any insurance on the Units or to effect or maintain any such insurance;

(c) to see to the payment or discharge of any tax, assessment or other governmental charge or any lien or encumbrance of any kind owing with respect to or assessed or levied against any part of the Trust Estate;

(d) to confirm or verify any reports of the Lessee other than to furnish the Beneficial Owner with a copy of each such report furnished the Owner Trustees by the Lessee pursuant to the Lease; or

(e) to inspect the Units at any time or ascertain or inquire as to the performance or observance of any of the Lessee's covenants under the Lease with respect to the Units.

SECTION 4.03. The Owner Trustees make no representation or warranty to the Beneficial Owners

(a) as to the value, condition or fitness for use of the Units or as to their title thereto, or any other representation or warranty with respect to the Units whatsoever;

(b) as to the validity, execution, sufficiency, legality or enforceability of this Trust Agreement (except as to their own authority to execute the same and the due execution thereof by the Owner Trustees), the Equipment Trust Agreement or the Lease or any document contemplated thereby, or as to the correctness of any statement contained in any thereof; and

(c) with respect to the Lessee's obligations under the Lease or with respect to the performance or observance of the terms or conditions of the Equipment Trust Agreement or the Lease by any party thereto,

and the Owner Trustees shall have no responsibility for any of the foregoing.

SECTION 4.04. The Owner Trustees shall have no liability or responsibility hereunder with respect to moneys except to the extent that such moneys are actually received by the Owner Trustees. No moneys received by the Owner Trustees hereunder need be segregated in any manner except to the extent required by law and the Owner Trustees shall not be liable for any interest thereon.

SECTION 4.05. Neither Trustee shall incur any liability to the Beneficial Owners in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it or him to be genuine and believed by it or him to be signed by the proper party or

parties. The Owner Trustees may accept a copy of a resolution of the Board of Directors of any corporation, certified by the Secretary or an Assistant Secretary of said corporaton, as duly adopted and in full force and effect, as conclusive evidence that such resolution has been duly adopted by said Board and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically described herein, the Owner Trustees may for all purposes hereof rely on a certificate, signed by or on behalf of the proper party executing the same, as to such fact or matter, and such certificate shall constitute full protection to the Owner Trustees for any action taken or omitted to be taken in good faith and reliance thereon. In the administration of the trusts hereunder, the Owner Trustees may execute any of the trusts or powers hereof and perform their powers and duties hereunder directly or through other agents or attorneys and may, with the joint consent of the Beneficial Owners at the expense of the Trust Estate, seek advice of counsel, accountants and other skilled persons to be selected and employed by them, and neither Trustee shall be liable for anything done, suffered or omitted in good faith by it or him in accordance with the advice or opinion of any such counsel, accountants or other skilled persons.

SECTION 4.06. In accepting the trusts hereby created, the Owner Trustees act solely as trustees hereunder and not in their individual capacities; and all persons, other than the Beneficial Owner, having any claim against the Owner Trustees by reason of the transactions contemplated hereby shall look only to the Trust Estate for payment or satisfaction thereof.

SECTION 4.07. The Owner Trustees from time to time serving hereunder shall have the absolute right, acting independently, to take any action and to exercise any right, remedy, power or privilege conferred upon the Owner Trustees hereunder; and any action taken by the Owner Trustees from time to time serving hereunder shall be binding upon the Owner Trustees and no person dealing with the Owner Trustees from time to time serving hereunder shall be obligated to confirm the power and authority of the Owner Trustees to act.

SECTION 4.08. Notwithstanding any provision of this Trust Agreement to the contrary, the Individual Trustee shall act as and be such upon the following terms and conditions:

(a) All rights, powers, duties and obligations conferred or imposed upon the Owner Trustees shall be conferred or imposed solely upon and solely exercised and performed by the Corporate Trustee except to the extent that under any laws of any jurisdiction in which any particular act or acts are to be performed (including the act of owning and leasing property therein) the Corporate Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised

and performed by the Individual Trustee. The Individual Trustee hereby appoints, authorizes and directs the Corporate Trustee to act as agent for the Individual Trustee to do all acts and execute all documents to be done and executed pursuant to the terms hereof, and the Corporate Trustee hereby accepts such appointment.

(b) No power granted by this Agreement to, or which this Trust Agreement provides may be exercised by the Individual Trustee except jointly with, or with the consent in writing of, the Corporate Trustee.

(c) All moneys which may be received or collected by the Individual Trustee, either as a co-trustee or separate trustee, shall be paid over to the Corporate Trustee.

(d) The Individual Trustee, to the extent permitted by law, may at any time by an instrument in writing constitute the Corporate Trustee or its successor in the trusts hereunder his agent or attorney in fact, with full power and authority to do any and all acts and things and exercise any and all discretion authorized or permitted by him, in his behalf and in his name.

(e) In case at any time the Beneficial Owners shall jointly file with the Corporate Trustee an opinion of counsel to the effect that it is no longer required that one of the Owner Trustees shall be an individual, the Individual Trustee shall forthwith cease to be a trustee, and all powers of the Individual Trustee shall forthwith terminate, as shall his right, title or interest in and to the Trust Estate, and no successor to the Individual Trustee shall be appointed, and all the title, rights, and powers of the Individual Trustee shall devolve upon the Corporate Trustee alone.

SECTION 4.09. The Corporate Trustee represents and warrants that:

(a) The Corporate Trustee is a national banking association duly organized and validly existing in good standing under the laws of the United States and has the corporate power and authority to enter into and perform its obligations under this Agreement;

(b) this Agreement has been duly executed and delivered by one of the officers of the Corporate Trustee who is duly authorized to execute and deliver this Agreement on behalf of the Corporate Trustee and, assuming due authorization, execution and delivery by the Beneficial Owners, is a legal, valid and binding agreement enforceable in accordance with its terms, and the trust created hereby creates for the Beneficial Owners the beneficial interest in the Trust Estate it purports to create; and

(c) the execution and delivery by the Corporate Trustee of this Agreement is not, and the performance by the Corporate Trustee of its obligations hereunder will not be, inconsistent with its charter or by-laws, do not and will not contravene any law, governmental rule or regulation, judgment or order applicable to it under Federal banking law or the law of the State of Utah, or any subdivision or agency thereof, and do not and will not contravene the provisions of, or constitute a default under, any indenture, mortgage, contract or other instrument to which it is a party or by which it is bound or require the consent or approval of, the giving of notice to, the registration with or the taking of any action in respect of or under Federal banking law or the law of the State of Utah or any subdivision or agency thereof by, any Federal, state or local governmental authority or agency, except such as have been obtained, given or accomplished.

SECTION 4.10. The Owner Trustees shall be entitled to receive reasonable compensation for their services and to be reimbursed for their reasonable expenses hereunder and under the Equipment Trust Agreement and the Lease.

SECTION 4.11. No Trustee hereunder shall be personally liable by reason of any act taken, omitted or suffered by any other Trustee hereunder.

## ARTICLE V

## THE BENEFICIAL OWNERS

SECTION 5.01. Each Beneficial Owner hereby severally, in proportion to its respective interest in the Trust Estate, agrees, whether or not any of the transactions contemplated hereby shall be consummated, to assume liability for, and does hereby indemnify, protect, save and keep harmless the Owner Trustees and their respective successors, assigns, legal representatives, agents and servants, from and against, any and all liabilities, obligations, losses, damages, penalties, taxes (the term taxes or the term tax as used in this section 5.01 shall include all taxes specifically related to this Trust Agreement and the Trust Estate created hereby excluding, however, any income taxes on fees or other compensation received by the Owner Trustees in their capacity as Owner Trustees), claims, actions, suits, costs, expenses or disbursements (including legal fees and expenses) of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Owner Trustees (whether or not also indemnified against by the Lessee under the Lease or also indemnified against by manufacturer(s), other vendor(s) or seller(s) or any other person) in any way relating to or arising out of this

Trust Agreement, the Lease or the Equipment Trust Agreement or any document contemplated thereby, or the performance or enforcement of any of the terms of any thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, possession, use, operation, condition, sale, return, storage or other disposition of the Units (including, without limitation, latent and other defects, whether or not discoverable, and any claim for patent, trademark or copyright infringement), or in any way relating to or arising out of the administration of the Trust Estate or the action or inaction of the Owner Trustees hereunder, except only in the case of willful misconduct or gross negligence on the part of the Owner Trustees in the performance of their duties hereunder. The indemnities contained in this section 5.01 shall survive the termination of this Trust Agreement. In addition, if necessary, the Owner Trustees shall be entitled to indemnification from the Trust Estate for any liability, obligation, loss, damage, penalty, claim, action, suit, cost, expense or disbursement indemnified against pursuant to this section 5.01 to the extent not reimbursed by the Lessee, manufacturer(s), other vendor(s) or seller(s), the Beneficial Owners or any other person; and, to secure the same, the Owner Trustees shall have a lien on the Trust Estate prior to any interest therein of the Beneficial Owners.

SECTION 5.02. Each Beneficial Owner will promptly pay or discharge any and all amounts claimed by any party arising from or through any action or inaction of such Beneficial Owner, which, if unpaid, might become a lien, claim, security interest or other encumbrance (other than the security interest created by the Equipment Trust Agreement) upon or with respect to the Trust Estate and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. In the event that such Beneficial Owner shall fail to so discharge any such encumbrance, the Owner Trustees or any other Beneficial Owner may, but shall have no duty to, discharge any such encumbrance, and shall be indemnified and reimbursed therefor by such Beneficial Owner.

SECTION 5.03. Each Beneficial Owner represents and warrants that (a) it is validly existing and in good standing under the laws of the jurisdiction of its incorporation, with adequate corporate power to enter into this Agreement, (b) this Agreement has been duly authorized, executed and delivered by such Beneficial Owner and is a legal and valid instrument, binding on such Beneficial Owner, and (c) the execution, delivery and performance of this Agreement by such Beneficial Owner and the execution, delivery and performance of this Agreement, the Lease, the Equipment Trust Agreement and the Lease Assignment by the Owner Trustees will not contravene the provisions of the certificate of incorporation or by-laws of such Beneficial Owner or any provisions of the laws of the United States or any State thereof to which such Beneficial Owner is subject or any governmental rule or regulation applicable to such Beneficial Owner

or result in any violation of or be in conflict with or constitute a default under or subject the Trust Estate to any lien of any indenture or other agreement to which such Beneficial Owner is a party or by which such Beneficial Owner or its property is bound.

## ARTICLE VI

## TRANSFER OF THE BENEFICIAL OWNERS' INTEREST

SECTION 6.01. Neither Beneficial Owner shall be entitled to assign, convey or otherwise transfer any of its right, title or interest in and to this Trust Agreement or the Trust Estate, except that all, but not less than all, of its right, title and interest in and to this Trust Agreement or the Trust Estate may be assigned, conveyed or transferred by a Beneficial Owner to (i) any subsidiary, parent or affiliate corporation of such Beneficial Owner, or (ii) to any banking or financial institution having a combined capital and surplus of at least $25,000,000 (such transferee to whom such interest in the Trust Estate may be assigned, conveyed or transferred being hereinafter referred to as Transferee); **provided, however** that such Beneficial Owner shall have received the prior written consent of the other Beneficial Owner. In the event of and as a condition to any such assignment, conveyance and transfer, the Transferee shall become a party to this Trust Agreement and agree to be bound by all the terms of and undertake all the obligations of a Beneficial Owner contained in this Trust Agreement in such manner as is satisfactory to the Owner Trustees. No such assignment, conveyance or transfer shall violate any provision of law or regulation to create a relationship which would be in violation thereof or derogate the rights of the Trustee under the Equipment Trust Agreement. In any event, until the transferring Beneficial Owner shall have received the prior written consent of the Owner Trustees and the Trustee, and without limiting the primary liability of the Transferee, such Beneficial Owner shall remain secondarily liable to perform the obligations undertaken but not performed by such Transferee. Upon any such disposition by a Beneficial Owner to a Transferee as above provided, such Transferee shall be deemed a Beneficial Owner for all purposes hereof, and shall be deemed to have made all the payments previously made by the Beneficial Owner; and each reference herein to a Beneficial Owner shall thereafter be deemed a reference to such Transferee.

SECTION 6.02. If a Beneficial Owner shall propose to transfer its interests hereunder pursuant to section 6.01 hereof, it shall give written notice to the Owner Trustees, the other Beneficial Owner and the Trustee specifying the name and address of the proposed

Transferee, and enclosing the agreement or agreements referred to in said section 6.01.

## ARTICLE VII

## SUCCESSOR OWNER TRUSTEES

SECTION 7.01. (a) Either Trustee or any successor thereto may resign at any time without cause by giving at least 30 days' prior written notice to the Beneficial Owners, such resignation to be effective on the date of appointment of a successor trustee as hereinafter provided. In addition, the Beneficial Owners may at any time remove either Trustee without cause by a joint instrument in writing delivered to such Trustee. In the case of the resignation or removal of the Corporate Trustee, the Beneficial Owners shall appoint a successor corporate trustee by a joint instrument signed by the Beneficial Owners. If the Beneficial Owners shall not have appointed a successor corporate trustee within 30 days after such resignation or removal, the Corporate Trustee shall continue as Corporate Trustee and may apply to any court of competent jurisdiction to appoint a successor corporate trustee to act until such time, if any, as a successor shall have been appointed by the Beneficial Owners as above provided. Any successor corporate trustee so appointed by such court shall immediately and without further act be superseded by any successor corporate trustee appointed by the Beneficial Owners within one year from the date of the appointment by such court. In case at any time the Individual Trustee shall resign or shall be removed or shall die or shall become incapable of acting, a successor may be appointed by the Beneficial Owners and the Corporate Trustee and, upon the request of the Corporate Trustee, the Beneficial Owners shall for such purpose join with the Corporate Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint such successor. In the event that the Beneficial Owners shall not have joined in such appointment within fifteen days after the receipt by it of a request so to do, the Corporate Trustee alone shall have power to make such appointment.

A successor trustee hereunder shall be deemed a Trustee for all purposes hereof, and each reference herein to the Owner Trustees shall thereafter be deemed to include such successor.

(b) Any successor trustee, whether appointed by a court or by the Beneficial Owners or the Corporate Trustee, shall execute and deliver to its or his predecessor trustee an instrument accepting such appointment, and thereupon such successor trustee, without further act, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor trustee in the

trusts hereunder with like effect as if originally named as Trustee herein; but nevertheless upon the written request of such successor trustee such predecessor trustee shall execute and deliver an instrument transferring to such successor trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of such predecessor trustee, and such predecessor trustee shall duly assign, transfer, deliver and pay over to such successor trustee any property or moneys then held by such predecessor trustee upon the trusts herein expressed.

(c) Any successor to the Corporate Trustee, however appointed, shall be a bank or trust company having a combined capital and surplus of at least $25,000,000. Any successor to the Individual Trustee shall always be an individual, but no such successor to the Individual Trustee shall be appointed by the Beneficial Owners without the approval of the Corporate Trustee, which may be expressed by joining in the instrument of appointment.

(d) Any corporation into which the Corporate Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Corporate Trustee shall be a party, or any corporation to which substantially all the corporate trust business of the Corporate Trustee may be transferred, shall, subject to the terms of this section 7.01, be the Corporate Trustee under this Trust Agreement without any further act.

(e) A successor trustee shall have the same duties, powers and discretion conferred herein on the Owner Trustees. A successor trustee may accept the assets of the Trust Estate delivered to it by its predecessor trustee as constituting the entire Trust Estate, and shall not be required to take any action to determine what constitutes the Trust Estate or to obtain possession of any assets thereof or to investigate any acts, omissions or misconduct of his predecessor trustee.

## ARTICLE VIII

## SUPPLEMENTS AND AMENDMENTS TO THIS TRUST AGREEMENT AND OTHER DOCUMENTS

SECTION 8.01. At any time and from time to time, upon the joint written request of the Beneficial Owners (a) the Owner Trustees and the Beneficial Owners shall execute a supplement hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Trust Agreement as specified in such request, provided, however, that such supplement shall be effective only upon

the written consent thereto of the Trustee and (b) the Owner Trustees shall enter into or consent to such written amendment of or supplement to the Lease or the Equipment Trust Agreement as the Lessee, or the Trustee, as the case may be, may agree to and as may be specified in such request, or execute and deliver such written waiver or modifications of the terms of the Lease or the Equipment Trust Agreement as may be specified in such request. It shall not be necessary for any such written request to specify the particular form of the proposed document to be executed pursuant to this section 8.01, but it shall be sufficient if such request shall indicate the substance thereof.

SECTION 8.02. If in the opinion of the Owner Trustees, or either of them, any document required to be executed pursuant to the terms of section 8.01 hereof imposes any additional or greater liability or duty or responsibility on, or limits or decreases any right of, or immunity or indemnity in favor of, the Owner Trustees under this Trust Agreement or under the Equipment Trust Agreement or under the Lease in respect of which such document is proposed to be executed, the Owner Trustees, or either of them, may decline to execute such document.

## ARTICLE IX

## MISCELLANEOUS

SECTION 9.01. In the event of any dispute with respect to delivery or ownership or right to possession of any funds or documents or any other assets constituting part of the Trust Estate or held by the Owner Trustees, the Owners Trustees may, without liability to the Beneficial Owners, retain such funds, documents or assets until such dispute has been settled by agreement of the parties, or by final order, decree or judgment of a tribunal having jurisdiction, or the Owner Trustees may, at their option, deposit such funds, documents or assets with the clerk of any state or federal court having jurisdiction and interplead the disputing claimants.

SECTION 9.02. This Trust Agreement and the trusts created hereby in any event shall terminate and this Trust Agreement shall be of no further force or effect upon the earlier of (a) the sale, transfer or other final disposition by the Owner Trustees of all property, including all right, title and interest of the Owner Trustees in and to the Equipment Trust Agreement, the Lease and all the Units at any time part of the Trust Estate and the final distribution by the Owner Trustees of all money, other property and proceeds constituting the Trust Estate, or (b) 21 years less one day after the death of the last surviving individual who is a member of

the firm of Ray, Quinney and Nebeker of Salt Lake City, Utah, on the date hereof; otherwise this Trust Agreement and the trusts created hereby shall continue in full force and effect in accordance with the terms hereof.

SECTION 9.03. At any time after the obligations of the Owner Trustees under the Equipment Trust Agreement have been fulfilled and the certificates issued thereunder fully paid and discharged, but not until such time, the Beneficial Owners may upon delivery of joint written instructions to such effect to the Owner Trustees, revoke this trust with respect to all, but not less than all, the Units subject to the provisions of the Lease, and thereupon vest in themselves title to such Units and the moneys or other property, proceeds and rights comprising the Trust Estate jointly, in accordance with their respective interests in the Trust Estate. Upon receipt of such instructions, the Owner Trustees shall transfer to the Beneficial Owners all such Units and the moneys or other property, proceeds and rights comprising the Trust Estate and the trusts created hereby with respect to such Units and the Lease shall thereupon terminate.

SECTION 9.04. The Beneficial Owners shall not have legal title to any part of the Trust Estate. No transfer, by operation of law or otherwise, of the right, title and interest of any Beneficial Owner in and to the Trust Estate or hereunder shall operate to terminate this Trust Agreement or the trusts hereunder or entitle any creditor, successor or transferee of any Beneficial Owner to an accounting or to the transfer to it of legal title to any part of the Trust Estate.

SECTION 9.05. Any assignment, sale, transfer or other conveyance by the Owner Trustees of the interest of the Owner Trustees in the Equipment Trust Agreement or the Lease or any Unit, made pursuant to the terms of the Equipment Trust Agreement or the Lease, shall bind the Beneficial Owner and shall be effective to transfer or convey all right, title and interest of the Owner Trustees in and to the Equipment Trust Agreement, the Lease or such Unit. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such assignment, sale, transfer or conveyance or as to the application of any sale or other proceeds with respect thereto by the Owner Trustees.

SECTION 9.06. Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be in writing and shall become effective when deposited in the United States mail, with proper postage for first class mail, prepaid, and addressed with the full name and address of the appropriate party set forth below:

if to the Owner Trustees, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Trust Division, Corporate Trust Department;

if to Crocker National Bank, at 79 New Montgomery Street, San Francisco, California 94104, attention of Factoring/Commercial Finance,

if to First Security Bank of Utah, National Association, at 79 South Main Street, Salt Lake City, Utah 84111, attention of C.S. Cummings;

or such other address as any party hereto shall furnish to the other parties by notice in writing, as aforesaid.

SECTION 9.07. This Trust Agreement shall be governed by, and be construed in accordance with, the laws of the State of Utah. Any provision of this Trust Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 9.08. No term or provision of this Trust Agreement may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party (whether or not a party hereto) against whom enforcement of the change, waiver, discharge or termination is sought; and any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given.

SECTION 9.09. This Trust Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which, when so executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

SECTION 9.10. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Owner Trustees and their successors and assigns, and the Beneficial Owner and its successors and, to the extent permitted by Article VI hereof, its assigns. Any request, notice, direction, consent, waiver or other instrument or action by the Beneficial Owner shall bind its successors and assigns. The Trust created hereby is for the benefit of the Trustee as well as the Beneficial Owners, and the covenants,

agreements, representations and warranties contained herein are expressly made for the benefit of, and may be enforced by, the Trustee, in consideration of the agreements contemplated by the Equipment Trust Agreement and the Participation Agreement.

SECTION 9.11. The headings of the various articles herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

IN WITNESS WHEREOF, the Beneficial Owners and the Corporate Trustee, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and the Individual Trustee has duly executed this instrument, all as of the date first above written.

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION,
as trustee hereunder

by /s/ William C. McGregor
Authorized Officer

THOMAS C. CUTHBERT

/s/ Thomas C. Cuthbert

CROCKER NATONAL BANK

by /s/ Edmund P. Wysocki
Vice President

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION,
as Beneficial Owner hereunder,

by /s/ C.S. Cummings
Authorized Officer



5263.58

SECURITY AGREEMENT

THIS SECURITY AGREEMENT dated as of September 15, 1980 (the "Security Agreement") between First Security Bank of Idaho, N.A. (the "Secured Party"), whose address is 119 North Ninth Street, Boise, Idaho 83707, Attention: _____, and First Security Leasing Company (the "Debtor"), whose address is 79 South Main Street, Salt Lake City, Utah, 84111 Attention: President.

RECITALS:

A. The defined terms used in this Security Agreement shall have the respective meanings indicated in Section 1 unless elsewhere defined or the context shall otherwise require.

B. The Debtor has entered into a Participation Agreement dated as of September 15, 1980 (the "Participation Agreement") with the Lessee and Secured Party which, among other things, provides for the commitment of the Secured Party to make and advance to the Debtor on each Closing Date under the Participation Agreement sums not exceeding an aggregate of $3,340,400, to be evidenced by the Secured Notes (the "Notes") of the Debtor to be dated the date of their issuance, to bear interest prior to maturity at the rate of 13-1/8% per annum, to be expressed to be payable in installments as described in Schedule 1 to the Participation Agreement and to otherwise be substantially in the form attached as Exhibit A to this Agreement.

C. The proceeds of the Notes are to be applied by the Debtor to finance a portion of the Purchase Price of Equipment leased to the Lessee under the Lease.

D. All of the requirements of law have been fully complied with and all other acts and things necessary to make this Security Agreement a valid, binding and legal instrument to secure the Indebtedness Hereby Secured have been done and performed.

NOW THEREFORE, in consideration of the premises and of the sum of Ten Dollars received by the Debtor from the Secured Party and other good and valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of all principal of and interest on the Notes according to their tenor and effect, and to secure the payment of all other Indebtedness Hereby Secured and the performance and observance of the covenants and conditions contained in the Notes, this Security Agreement and the Participation Agreement, the Debtor hereby grants the Secured Party, its successors and assigns, a security interest in the following described property (all of which property is hereinafter collectively referred to as the "Collateral"):

DIVISION I

The equipment described in Annex A to this Security Agreement (the "Equipment") constituting the Equipment leased and delivered under the Lease (the "Leased Equipment"), together with all renewals and restorations of, and all accessions to, any and all of said Leased Equipment which become the property of Debtor, together with all the rents, issues, proceeds, insurance proceeds, income, profits and avails therefrom (but excepting and reserving, however, any amounts due or to become due Lessor, either directly or indirectly, under Sections 16 or 9(d) of the Lease and any insurance or other indemnity payable to Lessor under the terms of the Lease (the "Excepted Rights")); and

DIVISION II

All right, title and interest of the Debtor, as lessor, in, under and to the Lease and all rents and other sums due and to become due thereunder including any and all extensions or renewals thereof (but excepting and reserving, however, any Excepted Rights); it being the intent and purpose hereof that the assignment and transfer to the Secured Party of said rents and other sums due and to become due under the Lease shall be effective and operative immediately and shall continue in full force and effect and the Secured Party shall have the right to collect and receive said rents and other sums for application in accordance with the provisions of Section 4 hereof at all times during the period from and after the date of this Security Agreement until the Indebtedness Hereby Secured has been fully paid and discharged;

SUBJECT, HOWEVER, to Permitted Encumbrances referred to in Section 1.1 hereof.

SECTION 1. DEFINITIONS:

The following terms shall have the following meanings for all purposes of this Security Agreement:

1.1. Terms Specifically Defined Herein.

"Basic Rent" for the purpose of this agreement shall mean the rent specified in Section 3(b) of Lease.

"Default" shall mean any event which would constitute an Event of Default if any requirement in connection therewith for the giving of notice, or the lapse of time, or the happening of any further condition, event or act had been satisfied.

"Event of Default" shall mean any of the events referred to in Section 5.1 hereof.

"Indebtedness Hereby Secured" shall mean the Notes and all principal thereof (and premium, if any) and interest thereon and all additional amounts and other sums at any time due and owing from or required to be paid by the Debtor under the terms of the Notes, this Security Agreement or the Participation Agreement.

"Lease" shall mean the Equipment Lease dated as of September 15, 1980 between the Debtor, as lessor, and the Lessee, as lessee, including each and every Certificate of Acceptance thereto, as such Lease may from time to time be supplemented or amended.

"Lessee" shall mean Kennecott Corporation, a New York corporation, and any corporation which succeeds thereto by merger or consolidation or which acquires all or substantially all of the assets thereof.

"Permitted Encumbrances" shall mean the interest of the Lessee under the Lease and Liens for taxes either not yet due or being contested in good faith with due diligence and by appropriate proceedings, inchoate materialmen's, mechanics', workmen's, repairmen's, employees' or other like Liens arising in the ordinary course of business and not delinquent, and any judgment Lien if execution on such judgment shall have been stayed.

1.2. Terms Defined in the Lease or Participation Agreement Incorporated Herein by Reference. "Basic Rent Dates" "Casualty Value" "Interim Rent Date" "Item of Leased Equipment", "Liens" and "Termination Value" shall have the meanings assigned thereto in the Lease. "Purchase Price" shall have the meaning assigned thereto in the Participation Agreement.

SECTION 2. COVENANTS AND WARRANTIES:

The Debtor covenants, warrants and agrees as follows:

2.1. Debtor's Duties. The Debtor covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, restrictions, covenants and agreements binding upon it under the Participation Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein and as though any amendment or supplement to the Participation Agreement were fully set out in an amendment or supplement to this Security Agreement.

2.2. Warranty of Title. The Debtor has the right, power and authority to grant a security interest in the Collateral to the Secured Party for the uses and purposes herein set forth; and the Debtor will warrant and defend the title to the Collateral against all claims and demands of persons claiming by, through or under the Debtor (excepting only Permitted Encumbrances). Without limiting the foregoing, there is no financing statement in which the Debtor is named as, or which the Debtor has signed as, debtor now on file in any public office covering any of the Collateral excepting any such financing statements which may be filed in respect of and for the security interest provided for herein.

2.3. Further Assurances. The Debtor will, at its own expense, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the better assuring, conveying, assigning and confirming unto the Secured Party all of the Collateral, or property intended so to be, whether now owned or hereafter acquired. Without limiting the foregoing, but in furtherance of the assignment of certain rents and other sums due and to become due under the Lease, the Debtor covenants and agrees that it will notify the Lessee of such assignment.

2.4. After-Acquired Property. Any and all property described or referred to in the granting clauses hereof which is hereafter acquired shall ipso facto, and without any further conveyance, assignment or act on the part of the Debtor or the Secured Party, become and be subject to the security interest herein granted as fully and completely as though specifically described herein, but nothing in this Section 2.4 contained shall be deemed to modify or change the obligation of the Debtor under Section 2.3 hereof.

2.5. Recordation and Filing. The Debtor will cause this Security Agreement and the Lease and all supplements hereto or thereto, and all financing and continuation statements and similar notices required by applicable law, at all times to be kept, recorded and filed at the expense of the Lessee in such manner and in such places as may be required in order fully to preserve and protect the rights of the Secured Party hereunder.

2.6. Right of Secured Party to Perform Certain Covenants. If Lessee shall fail to comply with the covenants in the Lease with respect to procuring insurance or maintaining the Leased Equipment in repair and free of liens, the Secured Party may make advances to perform the same to the extent permitted under Section 26 of the Lease, and Debtor agrees that the Secured Party may exercise the rights of Debtor as Lessor under the Lease to collect all sums so advanced.

2.7. Modifications of the Lease and Disposition of the Leased Equipment. The Debtor will not:

(a) without the prior written consent of Secured Party, declare a default or exercise the remedies of the Lessor under, or terminate, modify or accept a surrender of, or offer or permit any termination, modification or surrender of, the Lease (except as otherwise expressly provided herein) or by affirmative act consent to the creation or existence of any mortgage or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof; or

(b) receive or collect or permit the receipt or collection of any Basic Rent payment under the Lease prior to the date for payment thereof provided for by the Lease or assign, transfer or hypothecate (other than to the Secured Party) any Basic Rent payment assigned hereunder then due or to accrue in the future under the Lease in respect of the Leased Equipment; or

(c) sell, mortgage, transfer, assign or hypothecate (other than to the Secured Party) its interest in the Leased Equipment or any part thereof or in any amount to be received by it from the use or disposition of the Leased Equipment.

2.8. Power of Attorney in Respect of the Lease. The Debtor does hereby irrevocably constitute and appoint the Secured Party its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound, and give acquittance for any and all rents, income and other sums which are assigned under Division II of the granting clause hereof with full power to settle, adjust or compromise any claim thereunder as fully as the Debtor could itself do, and to endorse the name of the Debtor on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either in its own name or in the name of the Debtor, or otherwise, which the Secured Party may deem necessary or appropriate to collect any and all sums which may be or become due or payable under the Lease or which may be necessary or appropriate to protect and preserve the right, title and interest of the Secured Party in and to such rents and other sums and the security intended to be afforded hereby.

SECTION 3. POSSESSION, USE AND RELEASE OF PROPERTY:

3.1. While the Debtor is not in default hereunder it shall be suffered and permitted to remain in full possession, enjoyment and control of the Leased Equipment and to manage, operate and use the same and each part thereof with the right and franchises appertaining thereto; provided, always, that the possession, enjoyment, control and use of the Leased Equipment shall at all times be subject to the observance and performance of the terms of this Security Agreement.

It is expressly understood that the use and possession of the Leased Equipment by the Lessee under and subject to the Lease shall not constitute a violation of this Section 3.1 or any other provision of this Security Agreement.

3.2. So long as no Event of Default referred to in the Lease has occurred and is continuing, the Secured Party shall execute a release in respect of the Leased Equipment designated by the Lessee for settlement pursuant to the provisions of Sections 11 and 23 of the Lease upon receipt of (i) written notice from the Lessee and (ii) settlement by the Lessee for such part of the Leased Equipment in compliance with Sections 11 and 23 of the Lease, respectively.

SECTION 4. APPLICATION OF ASSIGNED RENTALS AND CERTAIN OTHER MONEYS RECEIVED BY THE SECURED PARTY:

4.1. Except to the extent provided for in this Section 4, the Notes shall not be subject to prepayment or redemption in whole or in part at the option of the Debtor prior to the expressed maturity date thereof.

4.2. As more fully set forth in Division II of the granting clauses hereof the Debtor has granted the Secured Party a security interest in certain of the rents and other sums due and to become due under the Lease as security for the Notes. So long as no Event of Default has occurred and is continuing:

(a) Basic Rent. The amounts from time to time received by the Secured Party which constitute payment of the installments of Basic Rent under the Lease shall be applied first, to the payment of the installments of principal and interest (and in each case first to interest and then to principal) on the Notes which have matured or will mature on or before the due date of such installments of Basic Rent which are received by the Secured Party and second, the balance, if any, of such amounts shall be paid to or upon the order of the Debtor on such due date.

(b) Supplemental Payments and Indemnities. The amounts, if any, from time to time received by the Secured Party which constitute payments under the Lease other than any payments of Basic Rent described in Section 4.2(a) hereof, Casualty Value under Section 11 of the Lease, Termination Value under Section 23 of the Lease and any such amounts which under the terms of the Lease are payable directly to the Secured Party, shall be paid to or upon the order of the Debtor or such other person to whom such amounts are payable.

(c) Casualty Value and Termination Payments. The amounts received by the Secured Party which constitute payment by the Lessee of the Casualty Value or Termination Value with respect to any Item of Leased Equipment pursuant to Sections 11 or 23 of the Lease shall be applied as follows:

(i) First, the payment of an amount equal to the accrued and unpaid interest on that portion of the Notes to be prepaid pursuant to the following subparagraph;

(ii) Second, an amount equal to the Loan Value of the Item of Leased Equipment for which settlement is then being made shall be applied to the prepayment of the Notes so that each of the remaining installments of each Note shall be reduced in the proportion that the principal amount of the prepayment bears to the unpaid principal amount of the Notes immediately prior to the prepayment; and

(iii) Third, the balance, if any, of such amounts held by the Secured Party after making the applications provided for by the preceding subparagraphs (i) and (ii) shall be released to or upon the order of the Debtor on the date of payment of the amounts provided in the preceding clauses (i) and (ii).

For purposes of this Section 4.2(c), the "Loan Value" in respect of any Item of Leased Equipment, shall be an amount equal to the product of (A) a fraction, the numerator of which is an amount equal to the Purchase Price of such Item of Leased Equipment for which settlement is then being made and the denominator of which is the aggregate Purchase Price of all Items of Leased Equipment then subject to the Lease (including the Purchase Price of such Item of Leased Equipment for which settlement is then being made), times (B) the unpaid principal amount of Notes immediately prior to the prepayment provided for in this Section 4.2(c) (after giving effect to all payments of installments of principal made or to be made on the date of prepayment provided for in this Section 4.2(c)).

4.3. Multiple Notes. If more than one Note is outstanding at the time any such application is made, such application shall be made on all outstanding Notes ratably in accordance with the aggregate principal amount remaining unpaid thereon.

4.4. Default. If an Event of Default referred to in Section 5.1 hereof has occurred and is continuing, all amounts received by the Secured Party pursuant to Division II of the granting clauses hereof shall be applied in the manner provided for in Section 5 in respect of proceeds and avails of the Collateral.

SECTION 5. DEFAULTS AND OTHER PROVISIONS:

5.1. The term "Event of Default" for the purpose hereof shall mean any one or more of the following:

(a) Default for a period of 10 days in the payment of any installment of the principal of, or interest on, the Notes when and as the same shall become due and payable, at a date fixed for prepayment, or by acceleration or otherwise; or

(b) The levy or imposition upon the Leased Equipment, or any part of the Leased Equipment, of any Lien (other than a Permitted Encumbrance or the interest of the Secured Party hereunder) which (i) arises by, through, or under the Debtor, other than Liens which the Lessee is obligated to discharge under the Lease, (ii) is prior to or on a parity with the security interest granted hereunder, and (iii) is not discharged or subordinated within forty-five (45) days; or

(c) Default in the due observance or performance by the Debtor of any other covenant or condition required to be performed or observed by the Debtor by the terms of the Notes, the Participation Agreement or this Security Agreement and such default shall continue for forty-five (45) days after written notice thereof to the Debtor by the Secured Party; or

(d) An Event of Default, as that term is used in Section 18 of the Lease, shall have occurred and be continuing and shall have been declared by written notice to the Lessee; or

(e) Any material representation or warranty made by the Debtor in writing herein or in any statement or certificate furnished by the Debtor to the Secured Party pursuant to any provision of this Security Agreement or in connection with the purchase of the Notes proves untrue in any material respect as of the date of the issuance or making thereof.

5.2. Subject to the provisions of Section 6 hereof and the then existing rights, if any, of the Lessee under the Lease, when any such Event of Default has happened and is continuing, the Secured Party shall have the rights, options and remedies of a secured party and the Debtor shall have the duties of a debtor under the Uniform Commercial Code of Utah (regardless of whether such Code or law similar thereto has been enacted in the jurisdiction wherein the rights or remedies are asserted), and without limiting the foregoing the Secured Party may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) The Secured Party may, by notice in writing to the Debtor, declare the entire unpaid balance of the Notes to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable;

(b) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Secured Party personally or by agents or attorneys shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the Collateral, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Debtor or the Lessee with or without notice, demand, process of law or legal procedure, and search for, take possession of, remove, keep and store the same, or use and operate or lease the same until sold;

(c) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Secured Party may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of such sale by registered mail to the Debtor once at least ten days prior to the date of such sale, and any other notice which may be required by law, sell and dispose of the Collateral, or any part thereof, at public auction to the highest bidder, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Secured Party may determine, and at any place (whether or not it be the location of the Collateral or any part thereof) designated in the notice above referred to. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice, and the Secured Party or the holders of the Notes, or of any interest therein, may bid and become the purchaser at any such sale;

(d) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Secured Party may proceed to protect and enforce this Security Agreement and the Notes by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a receiver or receivers for the Collateral or any part thereof, or for the recovery of judgment for the Indebtedness Hereby Secured subject to the provisions of Section 7 hereof, or for the enforcement of any other proper legal or equitable remedy available under applicable law; and

(e) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Secured Party may proceed to exercise all rights, privileges and remedies of the Lessor under the Lease, and may exercise all such rights and remedies either in the name of the Secured Party or in the name of the Debtor for the use and benefit of the Secured Party.

5.3. In case of any sale of the Collateral, or of any part thereof, pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Security Agreement, the principal of the Notes if not previously due, and the interest accrued thereon, shall at once become and be immediately due and payable; also, in case of any such sale, the purchaser or purchasers for the purpose of making settlement for or payment of the purchase price shall be entitled to turn in and use the Notes and any claims for interest matured and unpaid thereon, in order that there may be credited as paid on the purchase price the sum apportionable and applicable to the Notes including principal and interest thereof out of the net proceeds of such sale after allowing for the proportion of the total purchase price required to be paid in actual cash.

5.4. The Debtor covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law now or at any time hereafter in force, nor claim, take, nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisement of the Collateral or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the property so sold or any part thereof, and hereby expressly waives for itself and on behalf of each and every person, except decree or judgment creditors of the Debtor acquiring any interest in or title to this Security Agreement, all benefit and advantage of any such law or laws, and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to the Secured Party, but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted.

Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Debtor in and to the property sold and shall be a perpetual bar, both at law and in equity, against the Debtor, its successors and assigns, and against any and all persons claiming the property sold or any part thereof under, by or through the Debtor, its successors or assigns (subject, however, to the then existing rights, if any, of the Lessee under the Lease).

5.5. The purchase money proceeds and/or avails of any sale of the Collateral, or any part thereof, and the proceeds and the avails of any remedy hereunder shall be paid to and applied as follows:

(a) To the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and of all proper expenses (including attorneys' fees and legal expenses), liability and advances incurred or made hereunder by the Secured Party, or the holders of the Notes, and of all taxes, assessments or liens superior to the lien of these presents, except any taxes, assessments or other superior liens subject to which said sale may have been made;

(b) To the payment to the holders of the Notes of the amount then owing or unpaid on the Notes for the principal and interest; and in case any such proceeds shall be insufficient to pay the whole amount so due upon the Notes then to the payment of the principal and interest then owing and unpaid on the Notes (and in each case, with application on each Note to be first to interest and then to principal), without preference or priority of any installment of interest or principal over any other installment of interest or principal, ratably in proportion to the aggregate of such principal and accrued and unpaid interest; and

(c) To the payment of the surplus, if any, to the Debtor, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

5.6. In case the Secured Party shall have proceeded to enforce any right under this Security Agreement by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case the Debtor, the Secured Party and the holders of the Notes shall be restored to their former positions and rights hereunder with respect to the property subject to the security interest granted by this Security Agreement.

5.7. No delay or omission of the Secured Party or of any holder of the Notes to exercise any right or power arising from any default on the part of the Debtor shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Secured Party or any holder of the Notes of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom, except as may be otherwise provided herein. Nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the Indebtedness Hereby Secured under this Security Agreement operate to prejudice, waive or affect the security of this Security Agreement or any rights, powers or remedies

hereunder, nor shall the Secured Party or the holder of any of the Indebtedness Hereby Secured be required to first look to, enforce or exhaust such other or additional security, collateral or guarantees.

5.8. The Secured Party may not sell any of the Collateral subject to the Lessee's rights under the Lease if the Event of Default which permits the Secured Party to sell such Collateral results from the Lessee's default under the Lease.

SECTION 6. CERTAIN RIGHTS OF THE DEBTOR:

6.1. Right to Cure. Secured Party shall give the Debtor prompt written notice of any Default or Event of Default of which the Secured Party has knowledge and shall give the Debtor not less than ten days' prior telephone and written notice of the date (the "Enforcement Date") on which the Secured Party will exercise any remedy or remedies pursuant to Section 5.2 hereof. If a Default or Event of Default shall have occurred and be continuing, the Debtor shall have the following cure rights hereunder:

(a) In the event that as a result of the occurrence of a Default or an Event of Default in respect of the payment of Basic Rent or Casualty Value under the Lease, there shall be insufficient funds to pay any payment of principal and interest on any Note on the day it becomes due and payable (unless there shall have occurred and be continuing a Default or an Event of Default of the character referred to in subparagraphs (c) through (e) of Section 18 of the Lease), the Debtor may, but shall not be obligated to, pay to the Secured Party, on behalf of the Debtor, prior to the Enforcement Date, an amount equal to any principal and interest (including interest, if any, on overdue payments of principal and interest) then due and payable on the Notes, and such payment by the Debtor or other action shall be deemed to cure any Default or Event of Default which would otherwise have arisen on account of the non-payment by the Lessee of such Basic Rent under the Lease; provided, however, that the Debtor may in no event exercise such right on more than two consecutive Basic Rent Dates or exercise such right more than a total of six times throughout the term of the Lease.

(b) Upon the occurrence of a Default or an Event of Default of the character referred to in subparagraph (b) of Section 18 of the Lease, the Debtor may (unless there shall have occurred or be continuing a Default or Event of Default of the character referred to in subparagraphs (c) through (e) of Section 18 of the Lease), but shall not be obligated to, remedy such Default or Event of Default prior to the Enforcement Date.

Except as hereinafter in this Section 6 provided, by exercising the right to remedy any such Default or Event of Default the Debtor shall not obtain any lien, charge or encumbrance of any kind on any of the Leased Equipment or any Basic Rent or other amounts payable under the Lease for or on account of costs or expenses incurred in connection with the exercise of such right nor shall any claims of the Debtor against the Lessee or any other party for the repayment of such costs or expenses impair the prior right and security interest of the Secured Party in and to the Collateral.

If the Debtor elects pursuant to subparagraph (a) of this Section 6 to pay the amount of principal and interest then due and payable on the Notes, the Debtor shall be subrogated to the rights of the Secured Party and the holders of the Notes in respect of the Basic Rent which was overdue at the time of such payment and interest payable by the Lessee on account of its being overdue, and therefore, if no other Default or Event of Default shall have occurred and be continuing and if all principal and interest payments due on the Notes have been paid at the time of receipt by the Secured Party of such Basic Rent; the Debtor shall be entitled to receive such Basic Rent and such interest upon receipt thereof by the Secured Party; provided that the Debtor shall not be entitled to seek to recover any such payment (or any payment in lieu thereof) except pursuant to the foregoing right of subrogation.

6.2. Option to Prepay Notes. Whether or not the Debtor shall then have the right to cure an Event of Default under the Lease pursuant to Section 6.1 above, upon the occurrence of an Event of Default under the Lease and while the same is continuing, the Debtor may at its option prepay the Notes, without premium or penalty, by payment of the entire unpaid principal amount thereof together with accrued interest thereon to the date of prepayment.

If the Debtor shall elect to prepay the Notes pursuant to this Section 6.2, the Debtor shall give written notice of such prepayment not less than 60 days prior to the date fixed for the prepayment to Secured Party in the manner provided in Section 8.3 hereof, specifying the prepayment date and the amount to be prepaid. Upon notice of prepayment, the Debtor shall be obligated to prepay the Notes on the date specified in the manner set forth in the Notes for payment of principal and interest.

SECTION 7. LIMITATIONS OF LIABILITY:

Except as otherwise provided in Section 2.2 hereof, anything in this Security Agreement to the contrary notwithstanding, neither the Secured Party nor the holder of any Note nor the successors or assigns of any of said persons, shall have any claims, remedy or right to proceed against the Debtor in its individual corporate capacity or any incorporator or any past,

present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor for the payment of any deficiency or any other sum owing on account of the indebtedness evidenced by the Notes or for the payment of any liability resulting from the breach of any representation, agreement or warranty of any nature whatsoever in this Security Agreement, from any source other than the Collateral, including the sums due and to become due under the Lease; and the Secured Party by the execution of this Security Agreement and the holders of the Notes by acceptance thereof, waive and release any personal liability of the Debtor in its individual corporate capacity and any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor for and on account of such indebtedness or such liability, and the Secured Party and the holders of the Notes agree to look solely to the Collateral, including the sums due and to become due under the Lease, for the payment of said indebtedness or the satisfaction of such liability; provided, however, nothing herein contained shall limit, restrict or impair the rights of the holders of the Notes to accelerate the maturity of the Notes upon a default under this Security Agreement, to bring suit and obtain a judgment against the Debtor on the Notes or to exercise all rights and remedies provided under this Security Agreement or otherwise realize upon the Collateral.

SECTION 8. MISCELLANEOUS:

8.1. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements contained in this Security Agreement by or on behalf of the Debtor or the Secured Party shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

8.2. The unenforceability or invalidity of any provision or provisions of this Security Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

8.3. All communications provided for herein shall be in writing and shall be deemed to have been given (unless otherwise required by the specific provision hereof in respect of any matter) when delivered personally or on the fourth business day after deposit in the United States mail, registered or certified, postage prepaid, addressed as follows:

If to the Debtor:

FIRST SECURITY LEASING COMPANY
79 South Main Street
Salt Lake City, Utah 84111
Attention: President

If to Secured Party:

FIRST SECURITY BANK OF IDAHO, N.A.
119 North Ninth Street
Boise, Idaho 83707
Attention: _____

or to any such party at such other address as such party may designate by notice duly given in accordance with this Section to the other parties.

8.4. The Secured Party shall release this Security Agreement and the security interest herein provided for by proper instrument or instruments upon presentation of satisfactory evidence that all Indebtedness Secured Hereby has been fully paid or discharged.

8.5. This Security Agreement may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Security Agreement.

IN WITNESS WHEREOF, the Debtor and the Secured Party have caused this instrument to be executed by their duly authorized officers, all as of the day and year first above written.

FIRST SECURITY LEASING COMPANY
("Debtor")

By_____

Its _____

FIRST SECURITY BANK OF IDAHO, N.A.
("Secured Party")

By_____

Its_____

## Annex A TO SECURITY AGREEMENT

### Equipment

7 General Motors EMD Model GP39-2, 2,300 Horsepower, four axle diesel-electric locomotives in accordance with General Motors Locomotive Specification 8075, as modified.

Exhibit A to Security Agreement

FIRST SECURITY LEASING COMPANY

13-1/8% SECURED NOTE

THIS NOTE HAS NOT BEEN REGISTERED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAW OF ANY STATE, AND MAY BE OFFERED OR SOLD ONLY IF SO REGISTERED OR IF AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

No. _____ Dated _____

$_____

FOR VALUE RECEIVED, the undersigned, First Security Leasing Company (the "Debtor"), promises to pay to the order of First Security Bank of Idaho, N.A. or registered assigns, the principal sum of _____ Dollars ($_____) together with interest from the date hereof at the rate of 13-1/8% per annum (computed on the basis of a 360-day year of twelve consecutive 30-day months) in installments as follows:

(i) an installment of interest only on January 15, 1981;

(ii) twenty-nine semi-annual installments, including both principal and interest, each in the amount of $_____, on July 15, 1981 and on each January 15 and July 15 thereafter to and including July 15, 1995; and

(iii) a final installment on January 15, 1996 in an amount equal to the entire principal and interest remaining unpaid as of said date.

The Debtor further promises to pay interest at the rate of 14-5/8% per annum on each overdue installment of principal and (to the extent legally enforceable) upon each overdue installment of interest in each case from and after the maturity of each such installment thereof until paid.

All payments of principal of and interest on this Note shall be made at First Security Bank of Idaho, N.A. in coin or currency of the United States of America which at the time of payment shall be legal tender for the payment of public and private debts.

This Note is one of the Debtor's 13-1/8% Secured Notes (herein together with certain other notes of the Debtor called the "Notes") which are issued under and equally and ratably secured by that certain Participation Agreement dated as of September 15, 1980 among Kennecott Corporation, the Debtor and First Security Bank of Idaho (the "Secured Party") and that certain Security Agreement dated as of September 15, 1980 (the "Security Agreement") between the Debtor and the Secured Party. The Notes are limited to $3,340,400 in aggregate principal amount. Reference is made to the Security Agreement and all supplements and amendments thereto executed pursuant to the Security Agreement for a description of the collateral, the nature and extent of the security and rights and obligations of the Secured Party, the holder or holders of the Notes and of the Debtor in respect thereof.

This Note and said other Notes may be declared due prior to their expressed maturity date and certain prepayments (which are required to be applied ratably on all outstanding Notes of the same series) are required to be made thereon, all in the events, on the terms and in the manner provided for in the Security Agreement.

The terms and provisions of the Security Agreement and the rights and obligations of the Debtor and the rights of the holders of the Notes may be changed and modified to the extent permitted by and as provided in the Security Agreement.

The Notes are issuable as registered notes. The Debtor and the Secured Party may deem and treat the person in whose name this Note is registered as the absolute owner hereof (whether or not this Note shall be overdue) for the purpose of receiving payment and for all other purposes, and neither the Trustee nor the Secured Party shall be affected by any notice to the contrary.

Anything in this Note to the contrary notwithstanding, neither the Secured Party nor any holder hereof, nor their respective successors or assigns shall have any claim, remedy or right to proceed against the Debtor in its individual corporate capacity or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer, or director of the Debtor for the payment of any deficiency or any other sum owing on account of the Indebtedness evidenced by this Note or for the payment of any liability resulting from the breach of any representation, agreement or warranty of any nature whatsoever, from any source other than the collateral under the Security Agreement (the "Collateral"); and the Secured Party and the holder of this Note by its acceptance hereof waive and release any personal liability of the Debtor in its individual corporate capacity, and any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of the Debtor for and on account of such indebtedness or such liability, and the Secured Party and the holder of this Note agree to look solely to the Collateral for the payment of said

indebtedness or the satisfaction of such liability; provided, however, nothing herein contained shall limit, restrict or impair the rights of the Secured Party to accelerate the maturity of this Note upon a default thereunder, to bring suit and obtain a judgment against the Debtor of this Note or to exercise all rights and remedies provided under the Security Agreement or otherwise realize upon the Collateral; provided, further, that nothing in this paragraph shall be construed to limit in scope or substance those representations and warranties of the Debtor in its individual capacity set forth in the Participation Agreement or the Security Agreement.

FIRST SECURITY LEASING COMPANY

By_____

Title_____

AFFIDAVIT

This will certify that I have compared the attached copy of the Locomotive Sublease Agreement, dated as of October 22, 1986 by and between Kennecott Corporation, and BC Rail Ltd., plus the attached exhibits thereto, with the original document and attached exhibits, and I have found the copy of the Locomotive Sublease Agreement and the attached exhibits thereto to be complete and identical in all respects to the original documents.

Dated at Washington, D.C. this sixth day of November, 1986.

JOHN K. MASER III

District of Columbia, ss:

On this 6th day of November, 1986, before me, personally appeared John K. Maser III, to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

NOTARY PUBLIC

My Commission expires: April 30, 1988