

# INLEASING CORPORATION

ARTHUR M. LOEWENTHAL  
Executive Vice President

No. 0-22-1021

August 14, 1980

Date AUG 19 1980

12113

RECORDATION NO. \_\_\_\_\_ Filed & Recorded

Fee 50.00

AUG 18 1980 -3 25 PM

ICC Washington, D. C.

INTERSTATE COMMERCE COMMISSION

Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Re: Recordation of Railway Boxcar Lease between Inleasing Corporation ("Lessor") and Pickens Railroad Company and National Railway Utilization Corporation (collectively the "Lessees")

Gentlemen:

Enclosed for recording purposes, please find:

- (1) One original and two certified copies of the Master Equipment Lease and Modification Agreements between Inleasing Corporation and Pickens Railroad Company and National Railway Utilization Corporation covering 17 railroad boxcars.
- (2) Check in the amount of \$50 for recording fees.

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

Lessor: Inleasing Corporation, 85 Westminster Street,  
Providence, Rhode Island 02903

Lessees: National Railway Utilization Corporation  
Pickens Railroad Company  
1100 Centre Square East, 1500 Market Street  
Philadelphia, Pennsylvania 19102

The enclosed lease agreement between the above-named parties covers 17 Railroad Boxcars. The identifying numbers of the 12 Railroad Boxcars listed on Schedule 01 of the Lease are as follows:

55600	55606
55601	55607
55602	55608
55603	55609
55604	55610
55605	1776

Aug 18 3 25 PM '80  
FEDERAL  
OPERATION  
IN BR.



Secretary, Interstate Commerce Commission  
August 14, 1980  
Page 2

The identifying numbers of the 5 Railroad Boxcars manufactured by Golden Tye and listed on Schedule 02 of the Lease are as follows:

P.I.C.K. 55611  
P.I.C.K. 55612  
P.I.C.K. 55613  
P.I.C.K. 55614  
P.I.C.K. 55615

The original lease agreement should be returned to Mr. John R. Allen, Hinckley, Allen, Salisbury & Parsons, 2200 Industrial National Bank Building, Providence, Rhode Island 02903.

I have also enclosed a copy of a letter dated August 1, 1980, pursuant to which Inleasing Corporation modified their election under Paragraph 7 of the Conditional Acceptance and Modification Agreement.

If any further information is needed to record the enclosed documents, please contact me.

Very truly yours,

  
Arthur M. Loewenthal

AML:jld  
Enclosures

**Interstate Commerce Commission**  
Washington, D.C. 20423

8/20/80

OFFICE OF THE SECRETARY

**John R. Allen**  
**Hinckley, Allen, Salisbury & Parsons**  
**2200 Industrial National Bank Building**  
**Providence, Rhode Island 02903**

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 **8/18/80** at **3:25pm**, and assigned re-  
recording number(s).  
**12113**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

AUG 18 1980 - 3 25 PM

INTERSTATE COMMERCE COMMISSION

Certification

The undersigned hereby certifies that the attached is a true and exact copy of (1) Master Equipment Lease between Inleasing Corporation and Pickens Railroad Company and National Railway Utilization Corporation and (2) Railway Boxcar Lease Conditional Acceptance and Modification Agreement between the same parties dated July 15, 1980.

INLEASING CORPORATION

By

*Robert M. Hewitt*  
EXECUTIVE VICE PRESIDENT

Subscribed and sworn to before me this 14<sup>th</sup> day of August, 1980.

*R. Gloria Kelly*  
Notary Public

My Commission Expires June 30, 1981

# MASTER EQUIPMENT LEASE

12113

RECORDATION NO. .... Filed & Recorded

## INLEASING CORPORATION

85 WESTMINSTER STREET  
PROVIDENCE, RHODE ISLAND 02903  
TELEPHONE (401) 278-6911

AUG 18 1980 - 3 25 PM

INTERSTATE COMMERCE COMMISSION  
LEASE NO. 4000244500

LESSOR: INLEASING CORPORATION \_\_\_\_\_

LESSEE: Pickens Railroad Company & National Railway Utilization Corporation

ADDRESS: 402 Cedar Rock Street Pickens, South Carolina 29671

1. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the equipment and personal property, together with all replacement parts, additions thereto and substitutions therefor (the "Equipment") described in the schedule or schedules (the "Schedules") executed on the date hereof and from time to time by the Lessor and Lessee and attached hereto, upon the terms and conditions hereinafter set forth and as supplemented by the Schedules.

2. The term of this lease shall be for the period specified in the Schedule and shall commence on the date the Equipment is delivered to Lessee, an agent of Lessee, or to a carrier consigned for shipment to Lessee or an agent of such carrier or on the date when Lessor determines that all necessary documentation required in connection herewith has been completed by Lessee and Lessee hereby authorizes and appoints Lessor as its attorney-in-fact to supply the date in the Schedule at such time. Lessee hereby agrees to pay the total rental for the term hereof which shall be the total amount of all rental payments set forth in the Schedule. Lessee hereby waives any existing and future claims and offsets against rent or other payments due hereunder, and agrees to pay such rent and other amounts regardless of any offset or claim that may be asserted by Lessee or on its behalf.

3. LESSOR LEASES THE EQUIPMENT AS IS AND, NOT BEING THE MANUFACTURER OR SUPPLIER OF THE EQUIPMENT, NOR THE AGENT THEREOF, MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE EQUIPMENT'S MERCHANTABILITY, CONDITION, QUALITY, CAPACITY OR FITNESS FOR A PARTICULAR PURPOSE. Lessee acknowledges that the Equipment and its manufacturer or supplier were selected solely by Lessee in its own judgment. If the Equipment is not delivered, is not properly installed, does not operate as warranted, or is unsatisfactory for any reason whatsoever, Lessee shall make all claims on account thereof solely against the manufacturer or supplier and not against Lessor, and Lessee shall nevertheless pay all rentals and other sums payable hereunder. Lessee agrees to execute and deliver to Lessor, within 5 days after delivery and installation of the Equipment to Lessee at the address set forth in the Schedule, either a confirmation by Lessee of unconditional acceptance in a form satisfactory to Lessor or a notice specifying any defects in the Equipment or in the installation thereof which has come to the attention of Lessee and which would give rise to a claim by Lessee against the supplier, manufacturer or any other person, and Lessee's failure so to do shall be an acknowledgment by Lessee that no such defects in the Equipment or its installation exist.

4. The Equipment is, and shall at all times remain, the sole and exclusive property of Lessor. If at any time during the term hereof Lessor supplies Lessee with labels, plates or other markings indicating ownership of the Equipment by Lessor, Lessee shall affix the same to the equipment in a prominent location and shall not remove the same. The Equipment is, and shall at all times remain, personal property, notwithstanding that it or any part thereof may now or hereafter be affixed to real property.

This lease consisting of the foregoing, AND THE REVERSE SIDE HEREOF, together with Schedules(s), correctly sets forth the entire agreement between Lessor and Lessee. No agreements or understandings shall be binding on either of the parties hereto unless specifically set forth in this lease or Schedule(s). The term "Lessee" as used herein shall mean and include any and all lessees who sign hereunder, each of whom shall be jointly and severally bound thereby. **Pickens Railroad Company and National Railway Utilization Corporation hereby agree that their obligations and liabilities hereunder shall be joint and several.**

PRC: [Signature] NRUC: [Signature]  
Executed this 2nd day of September, 1980

By execution hereof, the signer hereby certifies that he has read this lease INCLUDING THE REVERSE SIDE HEREOF, and that he is duly authorized to execute this lease on behalf of Lessee.

LESSEE:  
Pickens Railroad Company & National Railway Utilization Corporation

By [Signature] Authorized Signature and Title

By [Signature] Authorized Signature & Title  
LESSOR:

INLEASING CORPORATION  
By Charles W. Carey EVP  
Authorized Signature and Title

Witness

THIS LEASE CANNOT BE CANCELLED



RIDER TO BE ATTACHED TO MASTER EQUIPMENT LEASE

\*6. So long as there shall be no default under this Lease, the Lessee shall be entitled to the possession of the Equipment and shall be entitled (i) to the use of the Equipment by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines or railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, (ii) to permit the use of the Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and (iii) to sublease any Unit of Equipment to other companies incorporated under the laws of any state of the United States or the District of Columbia, for use in connection with their operations, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessee shall not assign or permit the assignment of any Unit of Equipment to service involving the regular operation and maintenance thereof outside the United States of America. Lessee shall, whenever requested by Lessor, advise Lessor of the exact location of any and all Equipment. Lessee agrees not to sell, assign, sublet, pledge or otherwise suffer a lien upon or against any interest in the Lease or Equipment except as permitted in this Section 6.

\*7. Lessee shall, at Lessee's option forthwith (i) replace such Equipment with new equipment, or (ii) pay Lessor the residual balance as to such Equipment computed under the Rule of 78, plus the then fair market value of such Unit of Equipment.

\*12. As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit of Equipment, the Lessee will (unless such Unit is sold to the Lessee), at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor reasonably may designate, provided that such storage tracks shall not be more than 500 miles from Memphis, Tennessee, except with the consent of Lessee. During the period of time during which the Equipment is being returned on or after the original or any extended term of this Lease, the Lessee will pay to the Lessor as "holdover rent" for each such Unit being returned, the daily equivalent of the rental payment in effect pursuant to this Lease on the last rental payment date hereunder for each day elapsed from the date of expiration of the original or any extended term of this Lease, as the case may be, to the date each such Unit is returned to the Lessor pursuant to this Paragraph 12.

\*17. a. The Lessee shall have the right to purchase all but not less than all of the Equipment then leased hereunder at the expiration of the original term or of any renewal hereof at a price equal to the fair market value of such Equipment (as hereinafter defined). The Lessee shall give the Lessor written notice 180 days prior to the end of the term of its election to exercise the purchase option provided for in this Section. Payment of the option price shall be made at the place of payment of rent in funds then and there current against delivery of a Bill of Sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters.

(Continued)

b. The fair market value of a Unit of Equipment shall be equal in amount to the value which would obtain in an arm's-length transaction between an informed and willing buyer/user (other than (i) a lessee currently in possession, or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell. If on or before 60 days prior to the date of purchase elected by the Lessee, the Lessor and the Lessee are unable to agree upon a determination of the fair market value of a Unit of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent appraiser. The term appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or, failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected.

LESSEE:  
PICKENS RAILROAD COMPANY &  
NATIONAL RAILWAY UTILIZATION CORPORATION

By *John C. Marantz, Vice President*  
Authorized Signature and Title

By *John C. Marantz, Exec. Vice President*  
LESSOR: Authorized Signature and Title

INLEASING CORPORATION

By *Charles W. Carey, E. VP*  
Authorized Signature and Title

DATED: 9

This Lease Cannot be Cancelled

RAILWAY BOXCAR LEASE

CONDITIONAL ACCEPTANCE AND MODIFICATION AGREEMENT

FROM: INLEASING CORPORATION  
("Lessor")

TO: PICKENS RAILROAD COMPANY ("Pickens") and  
NATIONAL RAILWAY UTILIZATION CORPORATION ("NRUC")  
(collectively the "Lessees")

DATE: JULY 15, 1980

Gentlemen:

Pursuant to the Master Equipment Lease dated September 2, 1976 and the two Equipment Lease Schedules, the first dated September 2, 1976 and the second dated October 20, 1976, copies of which are attached hereto as Exhibit A (all hereinafter referred to as the "Lease"), Lessor leased to you and you leased from Lessor the 17 railroad box cars (the "Cars") described in the Lease.

Under date of June 6, 1980, you promulgated a proposed plan (the "Plan"), modified as of such date, and requested your lessors and lenders to accept the same. Subject to your prior agreement to the terms and conditions set forth herein and your acknowledgment thereof, as evidenced by your execution and return of two copies of this Conditional Acceptance and Modification Agreement, the undersigned elects Alternative Two of the Plan with respect to all Cars leased from Lessor upon the following terms, conditions and agreements:

1. By granting consent to such election, the Lease remains in full force and effect, and the only effect of acceptance of the Plan by the Lessor is suspension of present rights and remedies for a period which, at the election of the Lessor, shall terminate in the event that (a) there shall be a failure to attain "substantial acceptance" (as that term is defined in the Plan) of the Plan or (b) there shall occur an event of default as set forth in the Plan and herein. During such period, the Lessor agrees to be bound by the provisions of Alternative Two as supplemented herein.

2. If the Plan is amended generally or varied by special agreement with particular lessors or lenders so that, as a result of such amendment or special agreement, any lessor or lender who has

elected Alternative Two shall receive more favorable treatment than the treatment afforded the Lessor under the Plan or this Conditional Acceptance and Modification Agreement, then such more favorable provisions, whether such amendment or variance occurs prior to or subsequent to the execution of your acceptance hereof, shall be, and they hereby are, made available to the Lessor. The Lessees will promptly mail a copy of such amendment or special agreement to the Lessor who shall thereafter have the right to reject the same within ten (10) days after receipt of such copy. At the request of the Lessor, the Lessees will enter into a revised Conditional Acceptance and Modification Agreement with the Lessor which incorporates any such favorable terms, conditions, modifications and/or understandings.

3. Wherever the term "adequate notice" appears in the Plan, it shall be deemed to mean a period of not less than ten (10) days from the date notice is received by NRUC.

4. Notwithstanding any provision of the Plan which would divide lease payments into principal and interest portions for the convenience of the Lessees in the administration of the Plan, the allocation of "pass through" or other purposes under the Plan, it is understood and agreed that the rights of the Lessor and the relationship between the parties to the Lease remain that of lessor/lessee, there being no intention to modify the Lease so that it could be construed to be a financing lease or security agreement or to create a security interest in the Cars. Lessees hereby confirm the title of the Lessor in the Cars.

5. In addition to the "Events of Default" set forth in the Plan, the following shall constitute additional events of default: (a) loss or suspension of any franchise, certificate of convenience or necessity, license or privilege which enables Pickens to carry on its regular activities and business; (b) failure of NRUC to control Pickens as a subsidiary of NRUC; (c) default under any provision of the Lease which has not been waived or modified hereby; (d) imposition of a lien or storage charge in excess of \$500 upon any Car described in the Lease which remains unsatisfied for a period of thirty (30) days; (e) placement in service of any car (leased from Lessor) for a period in excess of three (3) months where Lessor has timely advised Lessees to refrain from so doing; (f) failure to furnish Lessor with copies of audited financial statements for NRUC with respect to each calendar year promptly after the availability thereof from NRUC's auditors; (g) failure to furnish Lessor with quarterly unaudited financial statements within a reasonable time after the end of each calendar quarter; (h) failure to furnish Lessor with quarterly reports on the usage of the Cars; and (i) material violation of any representation or agreement contained in the Plan or herein.

6. Upon the election of Alternative One with respect to all Cars or any of them, the Lease shall terminate with respect to all Cars which are the subject of such election, and the Lessees shall be released, with respect to all Cars which are the subject of such election, from any and all liabilities, claims, suits, demands, judgments and causes of actions, whether now existing or hereafter arising; provided, however, that Lessees' obligations to return each of the Cars and to pay any pass through and other payments accrued under the Plan prior to the return of the Cars as to which such election has been made shall not be released and shall be continuing obligations of the Lessees.

7. The Lessor hereby makes the following additional elections offered by the Plan:

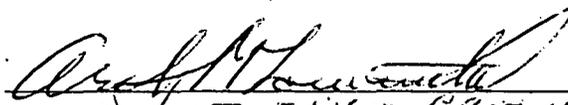
- (a) the Lessor does not elect to self-insure against maintenance;
- (b) the Lessor does not elect the "pooling" option;
- (c) the Lessor elects, in lieu of accepting common stock, to add unpaid Lease payments at April 1, 1980 to deferred principal and to add the interest portion to deferred interest.

The Lessor reserves the right, during such time as the elections referred to in (a), (b) and (c) above remain open, to change its elections upon timely notice to the Lessees.

8. Notice to the Lessees shall be complete upon mailing a copy thereof by registered or certified mail, return receipt requested, to the Lessees at 1100 Centre Square East, 1500 Market Street, Philadelphia, Pennsylvania 19102. The obligations of the Lessees under the Plan and this Conditional Acceptance and Modification Agreement shall be joint and several.

Very truly yours,

INLEASING CORPORATION

By   
EXECUTIVE VICE PRESIDENT

APPROVED AND AGREED TO:

NATIONAL RAILROAD UTILIZATION CORPORATION

By   
VP

PICKENS RAILROAD COMPANY

By   
VP

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

On this 15<sup>th</sup> day of July, 1980, before me personally appeared Arthur M. Brewenthal, to me personally known, who, being by me duly sworn, says that he is an authorized officer of INLEASING CORPORATION; that said instrument was signed 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.

A. Blaine Kelly  
Notary Public

(Notarial Seal)

My Commission Expires: June 30, 1981

STATE OF PENNSYLVANIA  
COUNTY OF PHILADELPHIA

On this 25<sup>th</sup> day of July, 1980, before me personally appeared C. D. Vinson, to me personally known, who, being by me duly sworn, says that he is the Vice President of Pickens Railroad Company; that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation; that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Maureen T. Parente  
Notary Public

MAUREEN T. PARENTE  
Notary Public, Phila., Phila. Co.  
My Commission Expires Oct. 11, 1982

(Notarial Seal)

My Commission Expires: October 11, 1982

# MASTER EQUIPMENT LEASE

## INLEASING CORPORATION

85 WESTMINSTER STREET  
PROVIDENCE, RHODE ISLAND 02903  
TELEPHONE (401) 278-6911

LESSOR: INLEASING CORPORATION LEASE NO. 4000244500

LESSEE: Pickens Railroad Company & National Railway Utilization Corporation

ADDRESS: 402 Cedar Rock Street Pickens, South Carolina 29671

1. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the equipment and personal property, together with all replacement parts, additions thereto and substitutions therefor (the "Equipment") described in the schedule or schedules (the "Schedules") executed on the date hereof and from time to time by the Lessor and Lessee and attached hereto, upon the terms and conditions hereinafter set forth and as supplemented by the Schedules.

2. The term of this lease shall be for the period specified in the Schedule and shall commence on the date the Equipment is delivered to Lessee, an agent of Lessee, or to a carrier consigned for shipment to Lessee or an agent of such carrier or on the date when Lessor determines that all necessary documentation required in connection herewith has been completed by Lessee and Lessee hereby authorizes and appoints Lessor as its attorney-in-fact to supply the date in the Schedule at such time. Lessee hereby agrees to pay the total rental for the term hereof which shall be the total amount of all rental payments set forth in the Schedule. Lessee hereby waives any existing and future claims and offsets against rent or other payments due hereunder, and agrees to pay such rent and other amounts regardless of any offset or claim that may be asserted by Lessee or on its behalf.

3. LESSOR LEASES THE EQUIPMENT AS IS AND, NOT BEING THE MANUFACTURER OR SUPPLIER OF THE EQUIPMENT, NOR THE AGENT THEREOF, MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE EQUIPMENT'S MERCHANTABILITY, CONDITION, QUALITY, CAPACITY OR FITNESS FOR A PARTICULAR PURPOSE. Lessee acknowledges that the Equipment and its manufacturer or supplier were selected solely by Lessee in its own judgment. If the Equipment is not delivered, is not properly installed, does not operate as warranted, or is unsatisfactory for any reason whatsoever, Lessee shall make all claims on account thereof solely against the manufacturer or supplier and not against Lessor, and Lessee shall nevertheless pay all rentals and other sums payable hereunder. Lessee agrees to execute and deliver to Lessor, within 5 days after delivery and installation of the Equipment to Lessee at the address set forth in the Schedule, either a confirmation by Lessee of unconditional acceptance in a form satisfactory to Lessor or a notice specifying any defects in the Equipment or in the installation thereof which has come to the attention of Lessee and which would give rise to a claim by Lessee against the supplier, manufacturer or any other person, and Lessee's failure so to do shall be an acknowledgment by Lessee that no such defects in the Equipment or its installation exist.

4. The Equipment is, and shall at all times remain, the sole and exclusive property of Lessor. If at any time during the term hereof Lessor supplies Lessee with labels, plates or other markings indicating ownership of the Equipment by Lessor, Lessee shall affix the same to the equipment in a prominent location and shall not remove the same. The Equipment is, and shall at all times remain, personal property, notwithstanding that it or any part thereof may now or hereafter be affixed to real property.

This lease consisting of the foregoing, AND THE REVERSE SIDE HEREOF, together with Schedules(s), correctly sets forth the entire agreement between Lessor and Lessee. No agreements or understandings shall be binding on either of the parties hereto unless specifically set forth in this lease or Schedule(s). The term "Lessee" as used herein shall mean and include any and all lessees who sign hereunder, each of whom shall be jointly and severally bound thereby. **Pickens Railroad Company and National Railway Utilization Corporation hereby agree that their obligations and liabilities hereunder shall be joint and several.**

PRC: [Signature] NRUC: [Signature]  
Executed this 2<sup>nd</sup> day of September 1976

By execution hereof, the signer hereby certifies that he has read this lease INCLUDING THE REVERSE SIDE HEREOF, and that he is duly authorized to execute this lease on behalf of Lessee.

LESSEE:  
Pickens Railroad Company & National Railway Utilization Corporation

By [Signature] Authorized Signature and Title

By [Signature] Authorized Signature & Title  
LESSOR:

INLEASING CORPORATION  
By Charles W. Carey EVP  
Authorized Signature and Title

THIS LEASE CANNOT BE CANCELLED

5. Lessee, at its own cost and expense, shall keep all Equipment in good repair, condition and working order and shall furnish all parts and servicing required therefor. Lessee shall not make any alterations or additions to the Equipment without the prior written consent of Lessor. All parts furnished and all additions made to the Equipment shall immediately become the property of Lessor subject to the terms hereof. Lessee shall use the Equipment in a safe and lawful manner and shall comply with all laws, regulations and orders relating to this lease, the Equipment and the use thereof. Lessee shall pay all transportation, packing, duties, installation, testing, and other charges in connection with the delivery, installation, and use of the Equipment, and all license fees, assessments and sales, use, property, excise and other taxes now or hereafter imposed by any governmental body or agency with respect to the Equipment, or the delivery, installation, lease, possession and use thereof, excluding, however, all taxes attributable to or measured by Lessor's net income, and shall assume the risk of liability arising from or pertaining to the possession or use of the Equipment. Lessee does hereby agree to indemnify, hold safe and harmless Lessor from and against, and covenants to defend Lessor against, any and all claims, costs, expenses, damages and liabilities arising from or pertaining to the possession or use of any of the Equipment.

6. ~~The Lessor shall not be liable for the death of or personal injury to any person resulting from the use of the Equipment, and shall not be removed from the lease without the prior written consent of Lessor. The Lessor shall not be liable for the death of or personal injury to any person resulting from the use of the Equipment, and shall not be removed from the lease without the prior written consent of Lessor. The Lessor shall not be liable for the death of or personal injury to any person resulting from the use of the Equipment, and shall not be removed from the lease without the prior written consent of Lessor.~~

7. (a) Lessee hereby assumes and shall bear the entire risk of loss, theft, destruction, and damage to the Equipment, ~~and shall not be removed from the lease without the prior written consent of Lessor.~~ **\*SEE ATTACHED RIDER** whatsoever, whether or not insured. No loss, theft, destruction or damage to the Equipment or any part thereof shall release or impair any obligation of the Lessee under this lease. (b) In the event of loss, theft, destruction or damage to any Equipment, Lessee shall promptly notify Lessor of such event and, at Lessor's option, Lessee shall forthwith (i) place such Equipment in good repair, condition and working order; or (ii) replace such Equipment with like equipment in good repair, condition and working order, giving clear title thereto by appropriate instrument to Lessor, which replacement Equipment shall be subject to the terms and conditions hereof. (c) If such Equipment is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair, Lessee shall pay Lessor the full amount of the replacement cost of such Equipment, plus any and all amounts and rentals then owed by Lessee to Lessor as set forth herein. (d) Upon replacement of any such Equipment pursuant to paragraph 7 (b) (ii) or payment pursuant to paragraph 7 (c), this lease shall terminate with respect to such Equipment so replaced or paid for, and Lessee shall thereupon become entitled to such Equipment as-is and where-is and without warranty, express or implied.

8. Any of the following events or conditions shall constitute an Event of Default hereunder: (a) non-payment when due of any rental payment or other amount provided for herein whether by acceleration or otherwise; (b) default by Lessee in the performance of any other obligation, term or condition contained herein; (c) the issuance of any writ or order of attachment or execution or other legal process against any Equipment which is not discharged or satisfied within ten (10) days; (d) death or judicial declaration of incompetency of Lessee, if an individual; (e) the commencement of any bankruptcy, insolvency, arrangement, reorganization, receivership, liquidation or other similar proceedings by or against Lessee; (f) the making by Lessee of a general assignment or deed of trust for the benefit of creditors; (g) a determination by Lessor, in its sole discretion and in good faith, that Lessee's ability to pay rentals promptly when due or to keep perform or comply with the terms of this lease or any other agreement executed in connection herewith has become impaired; (h) the occurrence of any event or condition described in clause (d), (e), (f) or (g) of this paragraph 8 with respect to any guarantor or any other party liable, in whole or in part, for payment or performance of this lease; (i) use of the Equipment beyond its capacity or in an improper or abusive manner; (j) if any certificate, statement, representation, warranty or audit heretofore or hereafter furnished by or on behalf of Lessee or any guarantor or other party liable, in whole or in part, for payment or performance of this lease, pursuant to or in connection with this lease, proves to have been false in any material respect at the time as of which the facts therein set forth were stated or certified, or to have omitted any substantial contingent or unliquidated liability or claim against Lessee or any such guarantor or other party; or (k) if upon the date of execution of this lease there shall have been any materially adverse change in any of the facts disclosed by any such certificate, statement, representation, warranty or audit, which change shall not have been disclosed to Lessor at or prior to the time of such execution.

9. Upon the occurrence of any Event of Default and at any time thereafter, Lessor may without any further notice exercise one or more of the following remedies as Lessor in its sole discretion shall elect: (a) declare all rental payments then due or thereafter to become due to be immediately due and payable; (b) terminate this lease as to any or all Equipment; (c) take possession of and remove any or all Equipment wherever located without liability to Lessor; (d) cause Lessee at its own expense promptly to assemble or return to Lessor any or all Equipment; (e) use, hold, sell, lease or otherwise dispose of any or all Equipment on the premises of Lessee or any other location without releasing Lessee's obligations hereunder; (f) seek appropriate relief at law or in equity to enforce performance of this lease by Lessee or to recover damages for the breach thereof; (g) exercise any and all rights accruing to Lessor under applicable law. Notice required, if any, of any sale or other disposition hereunder by Lessor shall be satisfied by the mailing of such notice to Lessee at least seven (7) days prior to the sale or other disposition. A termination shall occur only upon written notice by Lessor and only with respect to such Equipment as Lessor shall specify in such notice. Termination under this section 11 shall not affect Lessee's duty to perform Lessee's obligations hereunder to Lessor in full. Lessee agrees to reimburse Lessor on demand for any and all costs and expenses incurred by Lessor in enforcing its rights hereunder following the occurrence of an Event of Default, including without limitation reasonable attorneys' fees and the costs of repossession, storage, insuring, reletting and selling any and all Equipment.

10. Lessee shall at its own expense keep the Equipment insured for not less than the full replacement cost (new) thereof (including installation and other costs) against risks of loss or damage by fire (including so-called extended coverage), theft, collision (where applicable) and such other risks as shall be customary in Lessee's business or as Lessor may reasonably require, and shall maintain public liability and property damage insurance covering the Equipment, all in such amounts, upon such terms and written by such companies as Lessor may approve. All such insurance policies shall name both Lessor and Lessee as insureds, shall provide at least twenty (20) days' prior written notice to Lessor of any cancellation or alteration thereof, and shall provide that all amounts payable by reason of loss, theft or damage to the Equipment shall be payable only to Lessor. Any proceeds of such insurance resulting from loss, theft or damage to Equipment shall be paid to Lessor and may, at the election of Lessor, be applied towards the repair or replacement of such Equipment or towards Lessee's obligation pursuant to paragraph 7 above, and any excess shall be paid over to Lessee (provided that no Event of Default hereunder shall have occurred and been continuing). Lessee shall deliver to Lessor certificates of insurance or other evidence satisfactory to Lessor showing the existence of the insurance coverage required by this paragraph. In case of failure of Lessee to procure or maintain insurance, Lessor may at its option obtain such insurance, the cost of which will be paid by the Lessee as additional rentals. Lessee hereby irrevocably appoints Lessor as Lessee's attorney-in-fact to file, settle or adjust, and receive payment of claims under any such insurance policy and to endorse Lessee's name on any checks, drafts or other instruments in payment of such claims.

11. Lessee shall at its own expense furnish to Lessor such information and data as Lessor may from time to time reasonably request arising out of the use, operation, and condition of the Equipment and the taxes required to be paid by Lessee hereunder. Lessee shall also furnish to Lessor as soon as available, and in any event within 90 days after the close of each fiscal year of Lessee, a copy of the annual audit report, including balance sheet and profit and loss statements and showing in comparative form the figures of the preceding fiscal year of Lessee (and its domestic subsidiaries), all as prepared in such form and by such accountants satisfactory to Lessor.

12. ~~Upon expiration of the lease term, Lessee shall return the Equipment to Lessor in good repair, condition and working order, and shall not be removed from the lease without the prior written consent of Lessor.~~ **\*SEE ATTACHED RIDER**

13. Lessee agrees to pay to Lessor interest at the rate of 1 1/2% per month or the maximum rate permitted by law, whichever is lower, on all sums not paid by Lessee to Lessor when due and owing from the date of delinquency until paid. Lessor's rights and remedies in respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive, and shall be in addition to all other rights and remedies in its favor. A waiver on any one occasion shall not be construed as a waiver on any other occasion. The invalidity of any clause(s) of this agreement shall not affect the force and effect of the remaining valid clause(s) thereof, and said invalid clause(s) shall be deemed severed herefrom.

14. Lessee shall execute and deliver to Lessor upon Lessor's request such instruments and assurances as Lessor deems necessary for the confirmation, preservation or perfection of this lease and Lessor's rights hereunder. In furtherance thereof Lessor may file or record this lease or a memorandum thereof so as to give notice to third parties, and Lessee hereby appoints Lessor as its attorney-in-fact to execute, sign, file and record UCC financing statements with respect to the Equipment, as notices of this lease. Any such filing or recording shall not be deemed evidence of any intent to create a security interest under the Uniform Commercial Code.

15. Any notices and demands required to be given hereunder shall be in writing and sent to the parties by regular mail at the address herein set forth or to such other address as the parties may hereafter specify by written notice.

16. This lease shall be binding and effective only when executed by Lessor and shall be interpreted and governed by the laws of the State of Rhode Island. **17. See attached rider.**

**THIS LEASE CANNOT BE CANCELLED**

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ATTACHED RIDER

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RIDER TO BE ATTACHED TO MASTER EQUIPMENT LEASE

\*6. So long as there shall be no default under this Lease, the Lessee shall be entitled to the possession of the Equipment and shall be entitled (i) to the use of the Equipment by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines or railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, (ii) to permit the use of the Equipment upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and (iii) to sublease any Unit of Equipment to other companies incorporated under the laws of any state of the United States or the District of Columbia, for use in connection with their operations, but only upon and subject to all the terms and conditions of this Lease; provided, however, that the Lessee shall not assign or permit the assignment of any Unit of Equipment to service involving the regular operation and maintenance thereof outside the United States of America. Lessee shall, whenever requested by Lessor, advise Lessor of the exact location of any and all Equipment. Lessee agrees not to sell, assign, sublet, pledge or otherwise suffer a lien upon or against any interest in the Lease or Equipment except as permitted in this Section 6.

\*7. Lessee shall, at Lessee's option forthwith (i) replace such Equipment with new equipment, or (ii) pay Lessor the residual balance as to such Equipment computed under the Rule of 78, plus the then fair market value of such Unit of Equipment.

\*12. As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit of Equipment, the Lessee will (unless such Unit is sold to the Lessee), at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor reasonably may designate, provided that such storage tracks shall not be more than 500 miles from Memphis, Tennessee, except with the consent of Lessee. During the period of time during which the Equipment is being returned on or after the original or any extended term of this Lease, the Lessee will pay to the Lessor as "holdover rent" for each such Unit being returned, the daily equivalent of the rental payment in effect pursuant to this Lease on the last rental payment date hereunder for each day elapsed from the date of expiration of the original or any extended term of this Lease, as the case may be, to the date each such Unit is returned to the Lessor pursuant to this Paragraph 12.

\*17. a. The Lessee shall have the right to purchase all but not less than all of the Equipment then leased hereunder at the expiration of the original term or of any renewal hereof at a price equal to the fair market value of such Equipment (as hereinafter defined). The Lessee shall give the Lessor written notice 180 days prior to the end of the term of its election to exercise the purchase option provided for in this Section. Payment of the option price shall be made at the place of payment of rent in funds then and there current against delivery of a Bill of Sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters.

(Continued)

b. The fair market value of a Unit of Equipment shall be equal in amount to the value which would obtain in an arm's-length transaction between an informed and willing buyer/user (other than (i) a lessee currently in possession, or (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell. If on or before 60 days prior to the date of purchase elected by the Lessee, the Lessor and the Lessee are unable to agree upon a determination of the fair market value of a Unit of Equipment, such value shall be determined in accordance with the foregoing definition by a qualified independent appraiser. The term appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or, failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected.

LESSEE:  
PICKENS RAILROAD COMPANY &  
NATIONAL RAILWAY UTILIZATION CORPORATION

By *John C. Stewart, Vice President*  
Authorized Signature and Title

By *John C. Stewart, Exec. Vice President*  
LESSOR: Authorized Signature and Title

INLEASING CORPORATION

By *Charles W. Carey, EVP*  
Authorized Signature and Title

DATED: 9

This Lease Cannot be Cancelled

**INLEASING CORPORATION**

85 WESTMINSTER STREET  
PROVIDENCE, RHODE ISLAND 02903  
Telephone (401) 278-6911

Lease No. 4000244500 Schedule No. 01

Lessor: INLEASING CORPORATION

Lessee: Pickens Railroad Company & National Railway Utilization Corp.

Address: 402 Cedar Rock Street Pickens, South Carolina 29671

Place of Installation:

Same

Street

City

State

Monthly Due Date 10th

This schedule is for a period of 144 months, at \$ 5,367.60 per month rental commencing September 10, 1976.

First ~~and last~~ one payments payable at time of signing this schedule in the amount of \$ 5,367.60.

1. The following items of equipment are leased on the terms specified in this schedule and this schedule becomes a part of and subject to the terms and conditions of the above-mentioned Lease No. 4000244500 dated September 2, 1976.

MAKE - DESCRIPTION	MODEL NO.	SERIAL NO.
<u>12 Railroad Box Cars</u>		<u>55600 to 55610</u> <u>1776</u>

2. The rentals specified herein shall be payable in advance on the Monthly Due Date at the office of Lessor in Providence, Rhode Island or at such other place as Lessor may designate.

3. The above-specified additions constitute a formal amendment to the above mentioned Lease. Except as herein modified, all specifications, terms and conditions currently applicable to the Lease shall remain in full force and effect.

By execution hereof, the signer hereby certifies that he has read this Schedule and that he is duly authorized to execute this Schedule on behalf of Lessee.

LESSEE: Pickens Railroad Company & National Railway Utilization Corp.

Jack P. [Signature]  
Witness

By [Signature] Vice Pres. / Exec. V. Pres.  
Authorized Signature and Title

Date of execution by Lessee: September 2, 1976

LESSOR:  
INLEASING CORPORATION

By Charles W. Carey EVP  
Authorized Signature and Title

Date of execution by Lessor: September 9, 1976

**INLEASING CORPORATION**

85 WESTMINSTER STREET  
PROVIDENCE, RHODE ISLAND 02903  
Telephone (401) 278-6911

Lease No. 4000244500 Schedule No. 02

Lessor: INLEASING CORPORATION

Lessee: Pickens Railroad Company & National Railway Utilization Corporation

Address: 402 Cedar Rock Street, Pickens, South Carolina 29671

Place of Installation:

Same

Street

City

State

Monthly Due Date 20th

This schedule is for a period of 144 months, at \$ 2,236.50 per month rental commencing October 20, 1976.

First ~~month~~ only payments payable at time of signing this schedule in the amount of \$ 2,236.50.

1. The following items of equipment are leased on the terms specified in this schedule and this schedule becomes a part of and subject to the terms and conditions of the above-mentioned Lease No. 4000244500 dated September 2, 1976.

MAKE - DESCRIPTION	MODEL NO.	SERIAL NO.
<u>5 Railroad Box Cars manufactured by Golden Tye</u>		<u>PICK 55611-55615</u> <u>Both Inclusive</u>

2. The rentals specified herein shall be payable in advance on the Monthly Due Date at the office of Lessor in Providence, Rhode Island or at such other place as Lessor may designate.

3. The above-specified additions constitute a formal amendment to the above mentioned Lease. Except as herein modified, all specifications, terms and conditions currently applicable to the Lease shall remain in full force and effect.

By execution hereof, the signer hereby certifies that he has read this Schedule and that he is duly authorized to execute this Schedule on behalf of Lessee.

LESSEE: **Pickens Railroad Company & National Railway Utilization Corporation**

[Signature] Vice Pres. /  
By [Signature] Exec. V. Pres.  
Authorized Signature and Title

Date of execution by Lessee: October 20, 1976

LESSOR:  
INLEASING CORPORATION

By Charles W. Carey EVP  
Authorized Signature and Title

Date of execution by Lessor: October 21, 1976

Witness

# INLEASING CORPORATION

August 1, 1980

ARTHUR M. LOEWENTHAL  
Executive Vice President

Mr. Louis Babilino  
Director of Internal Auditing  
National Railway Utilization Corporation  
1100 Central Square East  
1500 Market Street  
Philadelphia, PA 19102

Dear Mr. Babilino:

Pursuant to Paragraph 7 of the Railway Boxcar Lease, Conditional Acceptance and Modification Agreement, between Inleasing Corporation and National Railway Utilization Corporation and Pickens Railroad Company dated July 15, 1980, Inleasing Corporation hereby notifies you of its decision to change its election under Paragraph 7A of such Agreement to self-insure against maintenance for the railroad box cars owned by Inleasing Corporation.

Please acknowledge receipt on the enclosed copy of this letter and return to me in the envelope provided.

Very truly yours,

INLEASING CORPORATION



Arthur M. Loewenthal

AML/gk  
Enc.

# INLEASING CORPORATION

August 1, 1980

ARTHUR M. LOEWENTHAL  
Executive Vice President

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Director of Internal Auditing  
National Railway Utilization Corporation  
1100 Central Square East  
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INLEASING CORPORATION



Arthur M. Loewenthal

AML/gk  
Enc.