

WEINER, McCAFFREY, BRODSKY & KAPLAN, P.C.

ATTORNEYS AT LAW

SUITE 800  
1350 NEW YORK AVENUE, N.W.  
WASHINGTON, D.C. 20005-4797

(202) 628-2000

TELECOPIER (202) 628-2011

December 15, 1988

RICHARD J. MELNICK\*\*  
PATRICIA L. PAYNE  
OF COUNSEL

MARYLAND OFFICE

SUITE 905  
ARTERY PLAZA  
7200 WISCONSIN AVENUE  
BETHESDA, MD 20814-4804  
(301) 986-0886

HARVEY E. WEINER  
R. LAWRENCE McCAFFREY, JR.  
JAMES A. BRODSKY  
PETER E. KAPLAN  
IRVING P. MARGULIES  
MARK M. LEVIN  
PETER A. GILBERTSON  
MARK H. SIDMAN  
L. MARK WINSTON\*\*  
MITCHEL H. KIDER  
KIMBERLY A. MADIGAN  
LAURENCE R. LATOURETTE  
RANDAL D. SHIELDS\*  
PETER F. MORIARTY  
MICHAELA A. ALBON  
RICHARD J. ANDREANO, JR.  
CHRISTOPHER E. HAGERUP  
C. A. AVRAKOTOS\* \*\*  
MARK L. HESSEL\*\*  
STEPHEN D. NILES\*  
KEVIN M. SHEYS  
JEFFREY A. SOULE\*

\*NOT ADMITTED IN D.C.  
\*\*ADMITTED IN MD.

INTERSTATE COMMERCE COMMISSION

No. 8-350A120

DEC 15 1988 2:00 PM

Date DEC 15 1988

RECORDATION NO. 1 6074

Fee \$ 13.00

DELIVERED BY HAND

ICC Washington, D.C.

Ms. Noreta R. McGee  
Secretary  
Interstate Commerce Commission  
12th Street & Constitution Avenue, N.W.  
Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION  
DEC 15 1988 1:50 PM  
RECORDATION NO. 1 6074-A  
Filed 1425

DEC 15 1 47 PM '88

Dear Ms. McGee:

I have enclosed two originals of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the United States Code.

This document is a Lease of Railroad Equipment, a primary document, dated as of December 1, 1988, which includes Lease Supplement No. 1, dated December 15, 1988.

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

Lessor: Wilmington Trust Company  
Rodney Square North  
Wilmington, Delaware 19890

Lessee: National Railroad Passenger Corporation  
400 N. Capitol Street, N.W.  
Washington, D.C. 20001

*Copy sent to Mr. S. Morant*

Ms. Noreta R. McGee

-2-

December 15, 1988

A description of the equipment covered by the document follows:

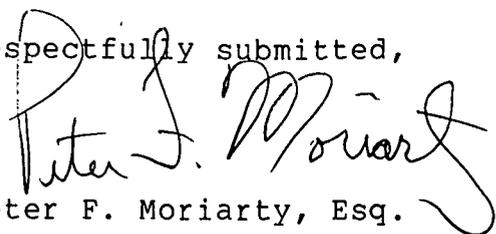
Five (5) AEM-7 electric locomotives, bearing National Railroad Passenger Corporation (Amtrak) road numbers 947-951, consecutively.

A check made payable to the Commission in the amount of \$13.00 is enclosed for the fee. Please return one original to: Peter F. Moriarty, Weiner, McCaffrey, Brodsky & Kaplan, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, D.C. 20005.

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

Lease of Railroad Equipment, dated as of December 1, 1988, as it pertains to those five AEM-7 electric locomotives (out of a total of seven such locomotives) bearing National Railroad Passenger Corporation (Amtrak) road numbers 947-951.

Respectfully submitted,

  
Peter F. Moriarty, Esq.

Enclosures

JCS/lr/0454P/8231

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LEASE OF RAILROAD EQUIPMENT

INTERSTATE COMMERCE COMMISSION

Dated as of December 1, 1988 DEC 1 5 1988 2-00<sup>net.</sup> DM

between

RECORDATION NO. 1 6074<sup>1225</sup>

WILMINGTON TRUST COMPANY, not in its  
individual capacity but solely as Owner Trustee,  
except as expressly provided herein,

Lessor

and

NATIONAL RAILROAD PASSENGER CORPORATION,

Lessee

---

SEVEN (7)<sup>3</sup> GENERAL MOTORS  
AEM-7 ELECTRIC LOCOMOTIVES

---

AS DESCRIBED IN SECTION 13.1, OF THIS LEASE, THE RIGHTS OF LESSOR UNDER THIS LEASE, AND IN THE LOCOMOTIVES AND OTHER PROPERTY COVERED HEREBY, HAVE BEEN ASSIGNED TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR OF, THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE UNDER A TRUST INDENTURE AND SECURITY AGREEMENT, DATED AS OF DECEMBER 1, 1988, BETWEEN LESSOR AND SUCH INDENTURE TRUSTEE. THIS LEASE HAS BEEN EXECUTED IN COUNTERPARTS. TO THE EXTENT, IF ANY, THAT THIS LEASE CONSTITUTES CHATTEL PAPER OR OTHER COLLATERAL WITHIN THE MEANING OF THE UNIFORM COMMERCIAL CODE (OR OTHER LAW RESPECTING SECURITY INTERESTS) AS IN EFFECT IN ANY APPLICABLE JURISDICTION, NO SECURITY INTEREST IN THIS LEASE MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OF THIS LEASE, OTHER THAN THE ORIGINAL EXECUTED COUNTERPART HEREOF, WHICH SHALL BE IDENTIFIED AS THE COUNTERPART CONTAINING THE RECEIPT THEREFOR EXECUTED BY SUCH INDENTURE TRUSTEE ON THE SIGNATURE PAGE HEREOF.

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ANNEX

A - Definitions

EXHIBITS

- A - Form of Certificate of Inspection and Acceptance
- B - Form of Lease Supplement
- C - Locomotive Delivery Dates and Purchase Prices

## LEASE OF RAILROAD EQUIPMENT

LEASE OF RAILROAD EQUIPMENT, dated as of December 1, 1988, between WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual capacity but solely as Owner Trustee except as expressly provided herein ("Lessor"), and NATIONAL RAILROAD PASSENGER CORPORATION (also known as AMTRAK), a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia ("Lessee"). Except as otherwise provided herein, capitalized terms used herein have the respective meanings attributed thereto in Annex A hereof. "Lease Agreement", "this Lease", "this Agreement", "herein", "hereunder", "hereof", "hereby" or other like words mean or refer to this Lease of Railroad Equipment, as originally executed or as modified, amended or supplemented from time to time, including, without limitation, supplementation by one or more Lease Supplements and any amendments thereto entered into pursuant to the applicable provisions hereof. Reference in this Lease to sections, subsections and paragraphs are to sections, subsections and paragraphs in this Lease unless otherwise indicated.

WHEREAS, pursuant to the Participation Agreement, Lessor, subject to the terms and conditions thereof, has agreed to purchase the Locomotives, such purchases to be made on the Delivery Dates;

WHEREAS, Lessee desires to lease the Locomotives at the Rent and for the term and upon the conditions hereinafter provided; and

WHEREAS, in order to secure certain borrowings to be made by Lessor to finance the Purchase Price of the Locomotives, Lessor has granted a first priority security interest therein and has assigned this Lease and certain of the payments to be made by Lessee hereunder, to Indenture Trustee.

NOW, THEREFORE, in consideration of the premises and of the Rent to be paid and the covenants hereinafter mentioned to be kept and performed by Lessee, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Locomotives upon the following terms and conditions:

### SECTION 1. NET LEASE; NONTERMINABILITY

1.1 Net Lease. This Lease is a net lease, and, as between Lessee and Lessor, it is intended that Lessee shall pay all costs and expenses of every character, whether foreseen or unforeseen, ordinary or extraordinary, in connection with the Locomotives, whether with respect to construction, delivery, ownership, use, possession, control, operation, maintenance, repair, insurance, improvement and return of the Locomotives, or otherwise, including without limitation the costs and expenses particularly set forth in this Lease.

1.2 Nonterminability. Each of Lessee's obligations to pay all Rent and other amounts hereunder shall be absolute and unconditional, without notice or demand and Lessee shall not be entitled to any abatement, deferral or suspension of Rent or such other amounts, reduction thereof or setoff against Rent or such other amounts, including, but not limited to, abatements, reductions, deferrals, suspensions or setoffs due, or alleged to be due, by reason of any past, present or future claims of Lessee against Lessor, Owner Participant, Manufacturer, Indenture Trustee, the holder from time to time of any Note or any other person, either under this Lease or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the obligations of Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Locomotives from whatsoever cause, any Liens or rights of others with respect to any of the Locomotives (except for any defect in or failure of title resulting solely from the acts or omissions of Lessor), the prohibition of or other restriction against Lessee's use of all or any of the Locomotives, the interference with such use by any person (including, without limitation, confiscation, requisition or other taking by any governmental authority, any person acting under governmental authority or otherwise, or action of any public or private person, whether by eviction by paramount title or for any other reason whatsoever), the invalidity or unenforceability or lack of due authorization of this Lease or any other Operative Document, any defect in the title to, compliance with plans or specifications for, condition, design or fitness for use of all or any of the Locomotives, any insolvency of or any bankruptcy, reorganization or other proceeding against Lessee, Lessor or any other person, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention and agreement of the parties hereto, and the basis of the bargain, that Interim Rent, Basic Rent, Renewal Rent, Supplemental Rent and other amounts payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless and until the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease of any of the Locomotives except in accordance with the express terms hereof. Except as provided in the Tax Indemnity Agreement with respect to certain payments of Supplemental Rent, each Interim Rent, Basic Rent, Renewal Rent, Supplemental Rent or other payment made by Lessee hereunder shall be final and Lessee shall not seek to recover all or any part of such payment (except for any excess payment made in manifest error) from Lessor, Owner Participant, Indenture Trustee, or any holder or former holder of a Note for any reason whatsoever.

Without limiting the generality of the foregoing, Lessee covenants that it will remain obligated under this Lease in accordance with its terms, and will not take any action to terminate (except in accordance with the express provisions hereof), rescind or avoid this Lease for any reason, notwithstanding any insolvency, bankruptcy, reorganization or other proceeding affecting Lessor or Owner Participant, or any property of Lessor or Owner Participant, or any action which may be taken by any receiver, trustee or liquidator (or other similar official) or by any court.

Lessee agrees that, if any proceeding shall be brought for the foreclosure of the Indenture and if the Trust Indenture Estate shall be sold pursuant to such foreclosure of the Indenture, so long as the purchaser under such foreclosure proceeding assumes the obligations of Lessor, Lessee will, in the event that this Lease shall not, prior to such sale, have been terminated or have expired in accordance with its terms, attorn to the purchaser upon any such sale at foreclosure or otherwise, including the Indenture Trustee if it should be the purchaser of the Trust Indenture Estate, and will recognize such purchaser as Lessor under this Lease, and this Lease shall continue in full force and effect as a direct lease between Lessee and such purchaser upon and subject to all the terms, covenants, conditions and agreements set forth in this Lease. Lessee agrees that it will execute and deliver, at any time and from time to time, upon the request of the Indenture Trustee or any such purchaser, any agreement, instrument or other document which, in the reasonable judgment of the party making such request, may be necessary or appropriate in any such foreclosure proceeding, or otherwise, to evidence such attornment.

Lessee agrees that it will duly perform and observe all the covenants, agreements and obligations on its part to be performed and observed under the Participation Agreement and under each of the other Operative Documents to which it is a party.

Nothing in this Section 1.2 or in any other provision of this Lease shall preclude any separate, independent claim (not by way of abatement or reduction of any amount at any time payable by Lessee hereunder) by Lessee for the breach of any representation, covenant, undertaking or agreement made herein and in any other Operative Document for the benefit of Lessee by Lessor or Owner Participant.

## SECTION 2. AGREEMENT TO LEASE; DELIVERY AND ACCEPTANCE

2.1 Agreement to Lease Locomotives. Subject to the terms hereof, Lessor hereby agrees to lease the Locomotives to Lessee hereunder, and Lessee hereby agrees to lease the Locomotives from Lessor hereunder, as evidenced by the execution by Lessor and Lessee of a Lease Supplement with respect to each such Locomotive.

2.2 Delivery and Acceptance of Locomotives. Lessor hereby appoints Lessee its agent solely for the purpose of inspection and acceptance of the Locomotives to be delivered on each Delivery Date pursuant to the Purchase Agreement and the Purchase Agreement Assignment. Upon such delivery, Lessee will cause a qualified employee of Lessee to inspect the same and, if such Locomotives are found to be acceptable, to accept delivery of such Locomotives and execute and deliver to Lessor a Certificate of Inspection and Acceptance, and a Lease Supplement relating to the Locomotives being acquired on such Delivery Date by Lessor pursuant to (and in the manner and subject to the conditions set forth in) the Participation Agreement; provided, that Lessee shall use its best efforts to take delivery of all Locomotives pursuant to this Lease by December 30, 1988. Upon delivery of a Certificate of Inspection and Acceptance and a Lease Supplement to Lessor, the Locomotives described therein shall be deemed to have been delivered to and accepted by Lessee for all purposes of this Lease and thereupon shall be subject to all of the terms and conditions of this Lease. Lessee's execution and delivery of a Lease Supplement shall be conclusive proof that the Locomotives listed therein have been leased to Lessee subject to the terms hereof.

## SECTION 3. RENT

### 3.1 Interim and Basic Rent.

(i) Interim Rent. Lessee agrees to pay to Lessor, as rent for each Locomotive during the Interim Term, Interim Rent with respect to such Locomotive. Interim Rent for all Locomotives shall be payable on the last day of the Interim Term; provided, that Lessee shall pay installments of Interim Rent for each Locomotive not later than 90 days after the delivery of such Locomotive, and at 90-day intervals thereafter.

(ii) Basic Rent. Lessee agrees to pay to Lessor, as rent during the Basic Term for each Locomotive subject to this Lease, 80 consecutive quarterly payments of Basic Rent payable in arrears on each Rent Payment Date of each year, commencing on March 30, 1989, to and including December 30, 2008.

3.2 Minimum Payments. Notwithstanding anything to the contrary contained herein or in any other Operative Document, in all events and irrespective of any adjustment thereto, Basic Rent and each amount of Casualty Value and Special Casualty Value, shall be at least in an amount such that, as and when received by Indenture Trustee, it shall be sufficient to pay the full amount of principal, premium (if any) and interest then due and payable in respect of all Notes then outstanding under the Indenture without regard to any acceleration but taking into account the Reset Interest Rate on and after the Reset Date. Nothing in this Section 3 shall be deemed to constitute a guarantee by Lessee of the indebtedness evidenced by the Notes or a guarantee of the residual value of any Locomotive.

3.3 Supplemental Rent. In addition to its obligation to pay Interim Rent, Basic Rent or Renewal Rent hereunder, Lessee shall pay Supplemental Rent to Lessor or to whomever shall be entitled thereto, as and when the same shall become due and owing in accordance with the provisions of the Operative Document that requires such payment and in the event of any failure on the part of Lessee to pay the same when due and owing in accordance with such provisions, Lessor shall have all rights, powers and remedies provided for herein or at law or in equity or otherwise in the case of nonpayment of Interim Rent, Basic Rent or Renewal Rent. Lessee also agrees to pay to Lessor or such other person as shall be entitled thereto, upon demand, as Supplemental Rent, to the extent permitted by applicable law, interest at the Overdue Rate (computed on the basis of a 360-day year of twelve 30-day months) on (i) any part of any installment of Interim Rent, Basic Rent or Renewal Rent, as the case may be, not paid when due for each day for which the same shall be overdue, and (ii) any payment of Supplemental Rent (other than such interest) not paid when due for each day for which the same shall be overdue, until the same shall be paid.

3.4 Adjustments to Basic Rent, Casualty Value and Special Casualty Value.

(i) With respect to each Locomotive subject to this Lease, if (a) the aggregate of all Transaction Expenses shall be other than 3% of the aggregate Purchase Price of the Locomotives subject to this Lease, (b) the Delivery Dates or the Purchase Prices are other than as set forth on Exhibit C hereto, (c) the Debt Rate or the Reset Interest Rate is other than 10.32% or (d) any Change in Tax Law occurs after the execution hereof and prior to or on the Delivery Date of such Locomotive, then the amounts of Basic Rent, Casualty Values and Special Casualty Values shall be appropriately adjusted by such amount or amounts as will cause Owner Participant's Net Economic Return to be equal to the Net Economic Return

(computed using the same assumptions (other than the changed assumptions giving rise to the adjustment in question) used most recently by Owner Participant in computing the Basic Rent, Casualty Values and Special Casualty Values, including, without limitation, the Tax Assumptions) that would have been realized by Owner Participant if such condition had not existed; provided, that in no event shall such adjustment adversely affect the tax consequences, whether or not described in Section 2(b) of the Tax Indemnity Agreement, anticipated by Owner Participant, or Owner Participant's Net Economic Return. Any adjustment to Basic Rent hereunder shall be such that it shall not cause the Lease to fail to satisfy the requirements of Section 467 of the Code, Revenue Procedure 75-21 or Revenue Procedure 75-28.

(ii) With respect to each Locomotive, Casualty Value shall also be adjusted from time to time to reflect any Change in Tax Rate in the "gross up" portion of such Casualty Value (i.e., that portion of Casualty Value that is intended to make the payee thereof whole with respect to any federal income tax that may be owing in respect to the receipt of such Casualty Value). Any such recomputation and adjustment of the Casualty Values shall (a) preserve Owner Participant's Net Earnings as of the Casualty Value Determination Date, without regard to the Change in Tax Rate, (b) be sufficient to pay any and all income taxes due to the United States government in respect of Owner Participant's receipt of Casualty Value, and (c) be sufficient to pay all state and local income taxes due assuming the state and local income tax rate specified in Section 2(b) of the Tax Indemnity Agreement.

(iii) With respect to each Locomotive, Special Casualty Value shall also be adjusted from time to time to reflect any Change in Tax Rate in the "gross up" portion of such Special Casualty Value (i.e., that portion of Special Casualty Value that is intended to make the payee thereof whole with respect to any federal income tax that may be owing in respect to the receipt of such Special Casualty Value). Any such recomputation and adjustment of the Special Casualty Values shall (a) preserve Owner Participant's Net Earnings as of the Special Casualty Value Determination Date, without regard to the Change in Tax Rate, (b) be sufficient to pay any and all income taxes due to the United States government in respect of Owner Participant's receipt of Special Casualty Value, and (c) be sufficient to pay all state and local income taxes due assuming the state and local income tax rate specified in Section 2(b) of the Tax Indemnity Agreement.

(iv) Any adjustment required by Section 3.4(i), 3.4(ii) or 3.4(iii) shall be effective as soon as possible. Such adjustment shall be evidenced by the execution and delivery by Lessor and Lessee of a Lease Supplement but failure to execute

and deliver such Lease Supplement shall not affect the making of such adjustment pursuant to Section 3.4(i), 3.4(ii) or 3.4(iii). If requested by Lessee, any computation of the amount payable by Lessee under Section 3.4(i), 3.4(ii) or 3.4(iii) shall be provided by Lessor to Lessee in a notice setting forth in reasonable detail the computations and methods used in computing such amount, with the information required to be set forth in such notice to be provided to Lessor by Owner Participant. If requested by Lessee, such determination shall be verified by either (a) a nationally recognized independent certified public accounting firm reasonably acceptable to Owner Participant, (b) a leasing company reasonably acceptable to Owner Participant, or (c) Xitech Inc., as Lessee shall decide; provided, that in each such case, any such Person shall agree to maintain the confidentiality of all information provided by Owner Participant (including, without limitation, Owner Participant's assumptions). Whoever is selected shall advise Lessee and Owner Participant as to whether the calculations submitted by Owner Participant are based on the correct assumptions and are mathematically correct, and the results of the verification by such firm shall be final and binding on the parties hereto except in the case of manifest error; it being understood that Lessee shall not be informed as to, and shall not have any right to review, any of the actual data used by such firm in reaching its conclusion. The cost of such verification shall be paid by Lessee. Any adjustment made pursuant to the foregoing shall, to the extent otherwise consistent with Sections 3.4(i), 3.4(ii), 3.4(iii) and this Section 3.4(iv), minimize the net present value of Basic Rent to Lessee. The determination of whether the net present value of Basic Rent to Lessee may be so minimized shall be made, at Lessee's sole expense, by Owner Participant in good faith, and such adjustment shall be based on the same assumptions (other than the changed assumptions giving rise to the adjustment in question) used by Owner Participant most recently in calculating such Basic Rent, Casualty Value and Special Casualty Value. In any verification of such determination, Owner Participant shall be under no obligation to, and whoever is selected shall not be entitled to, reveal such assumptions to Lessee. Owner Participant shall have no obligation whatsoever to seek a private letter ruling from the Internal Revenue Service with respect to any adjustment made pursuant to the foregoing.

3.5 Payments on Non-business Days. If any payment date referred to in Section 3.1, 3.3 or 14.2 is not a Business Day, the payment of Basic Rent, Interim Rent, Renewal Rent or Supplemental Rent, as the case may be, otherwise payable on such date shall be payable on the next succeeding Business Day.

3.6 Place of Rent Payment. Except as otherwise provided in Section 13.1, each installment of Interim Rent, Basic Rent and Renewal Rent shall be paid to Lessor and all amounts of

Supplemental Rent shall be paid to the person entitled thereto at such address as Lessor or such person, as the case may be, shall have provided to Lessee in writing.

3.7 Payment in Immediately Available Funds. Lessee agrees to make each payment provided for hereunder in immediately available funds at or prior to 11:00 a.m. on the day when and in the city where such payment is to be made.

#### SECTION 4. TERM OF LEASE

4.1 Beginning and Termination; Survival. The term of this Lease as to each Locomotive shall begin on the Delivery Date applicable to such Locomotive and, subject to the provisions of Sections 6, 11 and 14, shall continue until the last day of the Basic Term or, if renewed, the last day of the Renewal Term. Notwithstanding anything contained in the preceding sentence to the contrary, the obligations of Lessee hereunder (including, but not limited to, the obligations under Sections 6, 9, 10, 12 and 15) shall survive the expiration of the Lease Term and continue in full force and effect until the same shall have been fully performed by Lessee.

4.2 Rights and Obligations of Lessee Subject to Indenture. Notwithstanding anything to the contrary contained herein, all rights and obligations of Lessee under this Lease and in and to the Locomotives are subject to the rights of Indenture Trustee. If an Indenture Event of Default should occur, Indenture Trustee may terminate this Lease (or rescind its termination) without affecting the indemnities which by the provisions of this Lease, the Participation Agreement or any other Operative Document survive the termination of the Lease Term, all as provided therein; provided, that so long as (i) no Event of Default exists hereunder and (ii) Lessee is complying with the provisions of Section 13.1, this Lease may not be terminated and Lessee shall be entitled to its rights hereunder.

#### SECTION 5. IDENTIFICATION MARKS

5.1 Identifying Numbers; Legend; Changes. Lessee will cause each Locomotive to be kept numbered with the road number and serial number as shall be set forth in any Lease Supplement hereto extending this Lease to cover such Locomotive, and will affix and keep uncovered a fireproof metal nameplate four by six inches in size located in a prominent position in each of the cabs of each Locomotive marked in large letters and contrasting colors with the words "OWNED BY WILMINGTON TRUST COMPANY AS OWNER TRUSTEE, SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION" or bearing such other words as Lessor, and, unless and until Notes cease to be

outstanding under the Indenture, Indenture Trustee, shall reasonably request. Lessee shall not allow the name of any other Person to be placed on any Locomotive as a designation that might be identified as a claim of ownership or any other interest therein; provided, that nothing herein contained shall prohibit Lessee from placing its customary colors and insignia on any Locomotive. Lessee will replace promptly any such plates which may be removed, defaced, obliterated or destroyed. Lessee will not change the identification number of any Locomotive unless and until (i) a statement of a new number or numbers to be substituted therefor shall have been delivered to Indenture Trustee and Lessor and filed, recorded and deposited by Lessee in all appropriate public offices, including the public offices where this Lease and the Indenture shall have been filed, recorded and deposited and (ii) Lessee shall have furnished Indenture Trustee and Lessor an opinion of counsel in form and substance reasonably satisfactory to Lessor and Indenture Trustee to the effect that such statement has been so filed, recorded and deposited, that such filing, recordation and deposit will protect Indenture Trustee's security interest and Lessor's interests in such Locomotives and that no other filing, recording, deposit or giving of notice with or to any other federal, state, or local government or agency of the United States is necessary to protect the security interest of Indenture Trustee and the interests of Lessor in such Locomotives.

5.2 Insignia of Lessee. The Locomotives may be lettered with the names or initials or other insignia customarily used by Lessee or its permitted sublessees but Lessee will not allow the name of any other Person to be placed on any Locomotive as a designation that might be interpreted as a claim of ownership.

## SECTION 6. PAYMENT FOR CASUALTY OCCURRENCES; INSURANCE; CERTAIN OTHER COVENANTS

### 6.1 Casualty Occurrence; Payments.

In the event of any Casualty Occurrence with respect to any Locomotive or Locomotives, Lessee shall promptly (and in any event within 15 days) and fully notify Lessor, Owner Participant and Indenture Trustee with respect thereto. On the Casualty Payment Date with respect to the Locomotive or Locomotives which shall have suffered such Casualty Occurrence, Lessee shall pay to Lessor the sum of (A) the Casualty Value of each such Locomotive as of the Casualty Value Determination Date applicable thereto, (B) any Supplemental Rent due on such Casualty Payment Date, (C) all other amounts due hereunder in respect of such Locomotive as of such Casualty Payment Date, and (D) interest thereon calculated at the Debt Rate from and including the Casualty Value Determination Date up to, but

excluding such Casualty Payment Date (the sum of (A), (B), (C) and (D) above are hereinafter collectively referred to as the "Aggregate Casualty Payment"); provided, that if a Casualty Occurrence shall occur during the period that an Event of Default shall be continuing or any Locomotive is being returned pursuant to Section 12 then, notwithstanding anything else contained in this Section 6.1, Lessee shall make such Aggregate Casualty Payment to Lessor on a date which shall in no event be more than 30 days after such Casualty Occurrence. Upon the making of such Aggregate Casualty Payment by Lessee in respect of any Locomotive, and so long as no Default or Event of Default shall have occurred and be continuing, the Interim Rent, Basic Rent or Renewal Rent, as the case may be, for such Locomotive shall cease to accrue, the term of this Lease as to such Locomotive shall terminate and Lessee shall be entitled to recover possession of such Locomotive. Lessor shall, upon request of Lessee, execute and deliver to Lessee, or Lessee's assignee or nominee, a bill of sale for any such Locomotive as will transfer to Lessee only such right, title and interest, if any, as Lessor may have in such Locomotive, "as-is, where-is and with all faults" and without recourse, representation or warranty, express or implied, except that the Locomotive is free and clear of all Lessor's Liens and all Liens under the Swedish Financing Documents. If no Default or Event of Default shall have occurred and be continuing, then Lessee shall be entitled to receive and retain for its own account all condemnation or requisition payments in respect of such Locomotive up to the Aggregate Casualty Payment, but only if such amount shall have been previously paid to Lessor. The remainder of such proceeds, if any, shall be paid over to, or retained by, Lessor for its own account. If under the circumstances contemplated by the second preceding sentence such Locomotive shall be returned by the governmental entity prior to the time Lessee shall have been reimbursed by such application of condemnation or requisition payments in an amount equal to or greater than the Aggregate Casualty Payment, then, upon notice to Lessor, Lessee shall dispose of such Locomotive as agent for Lessor, and shall retain the proceeds of such disposition to the extent that the aggregate of the amounts so retained and the condemnation or requisition payments theretofor received by Lessee shall not exceed the Aggregate Casualty Payment, but only if such amount shall have been previously paid to Lessor. The remainder of such proceeds, if any, shall be promptly paid to Lessor.

**6.2 Requisition Not Constituting a Casualty Occurrence.**  
In the event of the requisition for use of any Locomotive which does not, or does not yet, constitute a Casualty Occurrence hereunder, all of Lessee's obligations under this Lease with respect to such Locomotive (including, without limitation, the obligation to make all payments of Interim Rent, Basic Rent, Renewal Rent and Supplemental Rent) shall continue to the same extent as if such requisition had not occurred. All payments

received by Lessor or Lessee from the United States government or any other governmental entity for the use of such Locomotive during the term of this Lease (other than a use of such Locomotive constituting a Casualty Occurrence) shall be paid over to, or retained by, Lessee provided no Default or Event of Default shall have occurred and be continuing.

6.3 Payment After Expiration of Lease. If the date for payment by Lessee pursuant to Section 6.1 in respect of any Locomotive shall be after the Lease Term in respect of such Locomotive, no Basic Rent or Renewal Rent for such Locomotive shall accrue after the end of the Lease Term.

6.4 Amount of Casualty Value. During the Interim Term and the Basic Term the Casualty Value of each Locomotive shall be the product of (x) the Purchase Price for such Locomotive and (y) the percentage set forth in Schedule 3 to the Lease Supplement applicable to such Locomotive opposite the Casualty Value Determination Date for such Casualty Occurrence. On the first day of the Initial Renewal Term, the Casualty Value of each Locomotive shall be an amount equal to 30% of the Purchase Price for such Locomotive. Thereafter, on the 30th day of each month during the Initial Renewal Term, the Casualty Value for each Locomotive shall be reduced by .2083 percentage points so that on the last day of the Initial Renewal Term the Casualty Value for each Locomotive shall be an amount equal to 20% of the Purchase Price for such Locomotive. During any Renewal Term thereafter, the Casualty Value for each Locomotive shall be an amount equal to 20% of the Purchase Price for such Locomotive. Casualty Value may be subject to adjustment during the Basic Term in accordance with Section 12 of the Tax Indemnity Agreement and Section 3.4 of this Lease.

6.5 No Release. Except as provided in Section 6.1 with respect to the payment of Interim Rent, Basic Rent and Renewal Rent, and Section 6.3 with respect to the payment of Basic Rent and Renewal Rent, Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Locomotive from and after delivery and acceptance thereof by Lessee hereunder.

6.6 Insurance to Be Maintained.

(i) Lessee will, at all times prior to the return to Lessor of the Locomotives pursuant to the terms hereof (and in any event while the Locomotives are being collected for delivery to Lessor and as provided in Sections 12 and 15) and at Lessee's own expense (except as otherwise provided in Section 15), cause the following insurance to be carried and maintained with insurers of recognized responsibility reasonably acceptable to Lessor and Indenture Trustee: (a) "all risk" property insurance in respect of the Locomotives at all times; provided, that Lessee may self-insure (for purposes of this Section 6.6, "self-insure" shall mean uninsured risk,

deductibles, and co-insurance) such Locomotives to the extent that Lessee customarily self-insures locomotives owned or leased by it similar to the Locomotives, but only to the extent such self-insurance is consistent with prudent industry practice for a Class I line-haul railroad engaged in intercity passenger carriage ("Property Insurance"); and (b) excess liability insurance with respect to third-party personal injury, death and property damage (including, but not limited to, contractual liability insurance) excluding only such risks as are consistent with prudent industry practice in a Class I line-haul railroad engaged in intercity passenger carriage ("Liability Insurance"). Lessee will carry Liability Insurance in such amounts and for such risks as is consistent with prudent industry practice for a Class I line-haul railroad engaged in intercity passenger carriage. In any event, such coverage will not be less comprehensive in amounts and against fewer risks customarily insured by Lessee in respect of locomotives owned or leased by it similar to the Locomotives.

(ii) Without the consent of Indenture Trustee and Owner Participant to the contrary, which consent shall not be unreasonably withheld, Lessee further agrees to maintain its current levels of Property Insurance and Liability Insurance described in the policies and certificates of insurance required to be delivered by Lessee to Lessor prior to the commencement of the Lease Term pursuant to Section 6.6(v) hereof and Section 7(j) of the Participation Agreement, including the self-insurance, to the extent such insurance is available to Lessee and with such insurance companies the maintenance of which insurance and the use of which companies is consistent with this Lease and prudent industry and business practice for a Class I line-haul railroad engaged in intercity passenger carriage.

(iii) If at any time during the Lease Term there occurs a Cessation of Substantial Financial Commitment, Lessee shall, within ten Business Days thereafter, (a) notify Lessor and Indenture Trustee thereof and (b) obtain Liability Insurance with a minimum coverage of \$100,000,000 and a maximum self-insurance level of \$1,000,000 and Property Insurance on the Locomotives with a minimum coverage level of at least the Casualty Value of the Locomotives and a maximum self-insurance level of \$500,000 in the aggregate for all Locomotives; provided, that if such insurance is not (upon the reasonable determination of Lessor) commercially available to Lessee with such insurance companies the maintenance of which insurance and the use of which companies is consistent with this Lease and prudent industry and business practice for a Class I line-haul railroad engaged in intercity passenger carriage, Lessee shall, within ten Business Days after being notified by Lessor in writing of such commercial unavailability, provide Lessor and Indenture Trustee with a property, casualty and liability insurance plan upon terms acceptable to Lessor and Indenture Trustee, and shall have such plan in place within five Business Days thereafter.

(iv) The insurance policies carried in accordance with the terms of this Lease shall:

(a) with respect to Property Insurance, (1) require 30 days' prior notice of cancellation for any reason, or material change in coverage to the Additional Insureds; (2) waive any right to claim any premiums or commissions against the Additional Insureds; (3) not require contributions from other policies held by the Additional Insureds; (4) waive any right of subrogation of the insurers against the Additional Insureds; (5) in respect of any liability of any of the Additional Insureds, except for salvage rights in the event of a Casualty Occurrence, waive the right of insurers to set-off, to counterclaim or to any other deduction, whether by attachment or otherwise, to the extent of any monies due the Additional Insureds; and (6) to the extent such coverage is available from Lessee's insurance carriers, insure the Additional Insureds regardless of any breach or violation of any warranty declaration or condition contained in such policy by Lessee or any other person; and

(b) with respect to both Liability Insurance and Property Insurance, (1) name the Additional Insureds and Owner Trustee in its individual capacity, as additional insureds (except that, with respect to policies of Liability Insurance, such requirement shall only apply to the extent permitted by insurers thereof; provided, that, to the extent such persons are not named as additional insureds, any such policies of Liability Insurance shall state that any person, organization, trustee or estate to whom Lessee is obligated by virtue of a written agreement to provide insurance afforded by such policies shall be an insured person pursuant to, and in accordance with, the terms of such policies) and, with respect to Property Insurance, as loss payees, as their respective interests may appear (provided, that such Property Insurance shall be made payable to Indenture Trustee under a standard mortgage loss payable clause meeting the further provisions hereof and satisfactory to Lessor and Indenture Trustee, unless and until Notes cease to be outstanding, at which time such insurance shall be made payable to Lessor); (2) to the extent such coverage is available from Lessee's insurance carriers, provide that the insurers will promptly notify the Additional Insureds in writing of any default in the payment of any premiums or any other act or omission on the part of Lessee of which they shall have knowledge which might entitle the insurers to cancel the policies; and (3) be in full force and effect throughout any geographical areas at any time traversed by any Locomotive.

(v) Prior to the commencement of the Lease Term, and thereafter not later than the anniversary of the first Delivery

Date, each year during the Lease Term Lessee shall deliver to the Additional Insureds a certified true copy of all policies (or, in the case of blanket policies, certificates therefor issued by the brokers thereunder, evidencing the types and amounts of insurance thereunder) of insurance.

(vi) In the event that Lessee fails to maintain the insurance required by this Section 6.6, each of the Additional Insureds may, at its option, but shall not be required to, provide such insurance, and in such event, Lessee shall, upon demand from time to time, reimburse such Additional Insured or Insureds for the cost thereof together with interest at the Overdue Rate, from the date of payment thereon by such Additional Insured or Insureds, on the amount of the cost to such Additional Insured or Insureds of such insurance which Lessee shall have failed to maintain and which such Additional Insured or Insureds shall have obtained.

(vii) Nothing in this Section 6.6 shall prohibit Lessor, Owner Participant or Indenture Trustee from obtaining insurance for its own account and any proceeds payable thereunder shall be as provided in the insurance policy relating thereto; provided, that no such insurance may be obtained that would limit or otherwise adversely affect the coverage of any insurance to be obtained or maintained by Lessee pursuant to this Section 6.6, it being understood that all salvage rights to the Locomotives in the event of Casualty Occurrence shall remain with Lessee's insurers at all times.

(viii) If Lessee intends not to pay any insurance premium, Lessee shall notify the Additional Insureds five Business Days in advance of the due date of such payment of insurance premium as to the existence of such due date and that it intends not to pay such premiums for insurance required hereunder.

(ix) Prior to the commencement of the Lease Term, and thereafter not later than each anniversary of the first Delivery Date each year during the Lease Term, Lessee shall provide an Officer's Certificate of Lessee stating that the insurance carried by Lessee complies with the provisions of this Section 6.6.

6.7 Insurance Proceeds. If no Default or Event of Default shall have occurred and be continuing, Lessee shall be entitled to receive and retain for its own account all proceeds of Property Insurance (except under policies described in Section 6.6(vii)) and third party payments in respect of any Locomotives suffering a Casualty Occurrence up to the Aggregate Casualty Payment set forth in Section 6.1, but only if such amount shall have been previously paid to Lessor; and the remaining proceeds, if any, shall be paid to, or retained by, Lessee. All Property Insurance proceeds (except under policies described in Section 6.6(vii)) or third party payments in

respect of any Locomotive not suffering a Casualty Occurrence received by an Additional Insured shall be paid to Lessee upon proof satisfactory to the Additional Insureds that any damage to such Locomotive in respect of which such proceeds were paid has been fully repaired, and provided that no Default or Event of Default shall have occurred and be continuing. The proceeds of any Liability Insurance shall be paid to Lessee and the Additional Insureds as their interests may appear.

6.8 Payments Upon Default. Payments under any provision of this Section 6 which, but for the existence of a Default or an Event of Default, would be permitted to be paid to or retained by Lessee, shall, during the continuance of any such Default or Event of Default, be paid to and retained by Lessor and applied against Lessee's obligations hereunder.

6.9 Eminent Domain.

(i) Any exercise by Lessee of any right of eminent domain (or other right of taking) granted or recognized by statute (including, without limitation, pursuant to 45 U.S.C. § 545(d)) or under common law against any Locomotive or any other property (including any right) granted, recognized or represented by any of the Operative Documents or any agreement, instrument, document or thing referred to in any of the Operative Documents as being part of or related to the transactions contemplated by any of the Operative Documents shall constitute a Special Casualty Occurrence hereunder.

(ii) If at any time Lessee exercises such right of eminent domain (or other right of taking) granted or recognized by statute (including, without limitation, pursuant to 45 U.S.C. § 545(d)) or under common law, Lessee agrees that it will pay to Lessor, as compensation on the date of the exercise of such right (a) the Special Casualty Value for each Locomotive, (b) any Rent then due on such date and (c) all other amounts due under the Operative Documents to Owner Participant, Lessor (in both its individual capacity and as trustee), Note Purchaser, any holder of a Note and Indenture Trustee from Lessee.

(iii) Lessee agrees that in any statement of the amount of money estimated to be just compensation that may be required to be filed with any court, administrative agency or other governmental agency having jurisdiction over the eminent domain proceeding, Lessee will specify an amount equal to the Special Casualty Value. Lessee further agrees that, if required, it will deposit such amount with the court, administrative agency or other governmental agency, as the case may be, and that it will not contest such amount in any proceeding.

(iv) If any court, administrative agency or other governmental agency awards as just compensation an amount of

money that is less than the Special Casualty Value, Lessee agrees to pay to Lessor, as liquidated damages and not as a penalty, an additional amount so that the total of such additional amount and the amount awarded by the court, administrative agency or other governmental agency equals the Special Casualty Value.

(v) Notwithstanding the foregoing, neither Owner Participant, Lessor, Note Purchaser, any holder of a Note nor Indenture Trustee agree or consent to any exercise by Lessee of any right of eminent domain (or other right to taking) granted or recognized by statute (including, without limitation, pursuant to 45 U.S.C. § 545(d)) or under common law or any attempt by Lessee to acquire title to any Locomotive except as expressly provided for in this Lease (without giving effect to this Section 6.9) or any other Operative Document and nothing in this Lease, including, without limitation, this Section 6.9, or any other Operative Document shall be construed to constitute such agreement or consent.

#### 6.10 Certain Claims and Determinations

(i) Lessee covenants and agrees that it will not make any Claim of Instrumentality with respect to or affecting (a) any Commercial Obligation or (b) any matter affecting Lessee that is not a Commercial Obligation; provided, that with respect to any Claim of Instrumentality described in clause (b) above, Lessee may make such Claim of Instrumentality with respect to a specific matter if no Default or Event of Default has occurred and is continuing and Lessee satisfies either or both of the following conditions: (x) Lessee shall have obtained the written consent of Lessor and Indenture Trustee to make such Claim of Instrumentality or (y) Lessee shall have provided to Lessor, Owner Participant, Indenture Trustee and each holder of a Note, at Lessee's expense, an opinion of counsel (who shall not be in-house counsel to Lessee) reasonably acceptable to Lessor and Indenture Trustee, in form and substance reasonably acceptable to Lessor and Indenture Trustee, to the effect that no Commercial Obligation might or will be adversely affected in any way by the making of such Claim of Instrumentality or by a determination of any such agency or court before which such Claim of Instrumentality is raised that Lessee is an Instrumentality.

(ii) If at any time Lessee makes a Claim of Instrumentality as provided in the proviso of the preceding paragraph when Lessee has failed to meet either of the conditions noted in clauses (x) or (y) of such proviso, then at any time thereafter during the continuation of any such failure, Lessor shall have the right, but not the obligation (to be exercised by written notice to Lessee and Indenture Trustee) to require that Lessee purchase the Locomotives from

Lessor on the later of 15 days after such written notice or the last day of the month in which such notice is given. On such date, Lessee shall purchase the Locomotives by paying to Lessor a purchase price equal to the Special Casualty Value for each Locomotive. In addition, Lessee shall also pay to Lessor any Rent then due on such date and shall pay all other amounts due under the Operative Documents to Owner Participant, Lessor, Note Purchaser, any holder of a Note, and Indenture Trustee by Lessee.

(iii) Any purchase and transfer pursuant to this Section 6.10 will be effected in accordance with the following provisions: Lessee shall accept from Lessor, and Lessor shall deliver to Lessee, a bill of sale for the Locomotives as will transfer to Lessee only such right, title and interest, if any, as Lessor may have in such Locomotive, "as-is, where-is and with all faults," and without recourse, representation or warranty, express or implied, except that the Locomotive is free and clear of all Lessor's Liens and all Liens under the Swedish Financing Documents and, upon certification by the Indenture Trustee, of the lien of the Indenture; provided, that Lessee shall have simultaneously therewith delivered to Lessor, at Lessee's expense, evidence (which may, in Lessor's discretion, include an opinion of counsel) reasonably satisfactory to Lessor that the conditions set forth in this Section 6.10 have been duly satisfied. On the date fixed for the purchase of the Locomotives pursuant to this Section 6.10, Lessee shall pay to the order of Lessor or its designees the amounts specified in Section 6.10(ii) therefor by certified check or checks drawn on, or wire transfer or transfers of, federal funds, and Lessor shall make the conveyance to Lessee described above. All charges incident to such conveyance, including, without limitation, attorneys' fees and all applicable transfer taxes and other taxes required to be paid in order for the transfer documents to be effective that may be imposed by reason of such conveyance and assignment and the delivery of such assignment shall be paid by Lessee.

## SECTION 7. REPORTS; INSPECTION

7.1 Reports. (i) On or before February 15th of each year, commencing with calendar year 1990, Lessee will furnish to Owner Participant, Lessor, Indenture Trustee, and each holder of a Note, an Officer's Certificate (a) setting forth as at the preceding December 31st the total number, description, road numbers, and serial numbers of all Locomotives then leased hereunder, the total number, description, road numbers and serial numbers of all Locomotives that have suffered a Casualty Occurrence during such preceding calendar year or are then undergoing repairs (other than running repairs) or are then withdrawn from use pending repairs (other than running repairs), and setting forth such other information regarding the condition and state of repair of the Locomotives as Lessor,

Owner Participant, Indenture Trustee or such holder may reasonably request, (b) stating that, in the case of all Locomotives repainted or repaired during the period covered by such statement, the numbers and markings required by Section 5.1 have been preserved or replaced, (c) stating that Lessee is in compliance with the provisions of this Lease and has performed or has caused to be performed the required maintenance of the Locomotives and that no Default or Event of Default has occurred and (d) identifying those Locomotives to which Lessee has made additions and accessions pursuant to Section 10.2 and describing such additions and accessions and the costs thereof. Lessee further agrees to provide Owner Participant with information regarding the location of the Locomotives during each of Owner Participant's taxable years sufficient to allow Owner Participant to prepare its state income tax returns.

(ii) Lessee will notify Owner Participant, Lessor, Indenture Trustee and each holder of a Note, within ten days after Lessee shall have become aware of the same, as to (a) any Lien (except Liens specified in clause (iii) of the definition of "Permitted Liens") that shall have attached to any Locomotive, (b) the full particulars thereof and (c) the action, if any, taken or proposed to be taken by Lessee in respect thereof.

(iii) Lessee agrees that it will, promptly upon a Responsible Officer of Lessee becoming aware of any event or condition which constitutes a Default or Event of Default, furnish Owner Participant, Lessor, Indenture Trustee and each holder of a Note with a written notice specifying such event or condition, the nature and status thereof and the action taken or proposed to be taken by Lessee in respect thereof.

(iv) Lessee will notify Lessor and Indenture Trustee of each accident arising out of or calling into question the construction or operation of any Locomotive or Locomotives promptly upon Lessee's becoming aware of the same, and will furnish Lessor and Indenture Trustee with information as to the time, place and nature thereof, and such additional information as either Lessor or Indenture Trustee shall reasonably request; provided, that the notice requirements of this paragraph (iv) shall apply only with respect to any accident which involves possible damages to the Locomotives of more than \$500,000 in the aggregate.

**7.2 Inspection.** Lessor, Owner Participant, Indenture Trustee, any holder of a Note, or any agent thereof, shall each have the right, at its own risk and expense (except as set forth below), to inspect the Locomotives and inspect (and make copies of) Lessee's records with respect thereto at such reasonable times, and without undue interference with Lessee's

operations, as such person or agent may request during the continuance of the Lease Term (and in any event while the Locomotives are being collected for delivery to Lessor and while the Locomotives are being stored by Lessee), but such person or agent shall have no obligation to do so, and shall incur no liability for failure to do so. During the continuance of a Default or an Event of Default, such inspection shall be at Lessee's expense.

#### SECTION 8. DISCLAIMER OF WARRANTIES; WARRANTY OF TITLE

NEITHER OWNER TRUSTEE (WHETHER ACTING IN ITS INDIVIDUAL CAPACITY OR AS TRUSTEE), OWNER PARTICIPANT NOR INDENTURE TRUSTEE MAKES OR HAS MADE, OR SHALL BE DEEMED TO MAKE OR HAVE MADE, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, QUALITY, DURABILITY, COMPLIANCE WITH SPECIFICATIONS, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE OF THE LOCOMOTIVES, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY LOCOMOTIVE, EITHER UPON DELIVERY THEREOF TO LESSEE OR OTHERWISE (which Locomotives were selected by Lessee on the basis of its own judgment without reliance upon any statements, representations or warranties made by Owner Trustee, Owner Participant or Indenture Trustee), except as expressly set forth in the Participation Agreement or the Indenture, it being agreed that all such risks, as between Owner Trustee, whether in its individual capacity or as trustee, Owner Participant, Indenture Trustee and the holder of any Note on the one hand and Lessee on the other hand, are to be borne by Lessee, except as may be otherwise provided in the Participation Agreement and the Indenture. Lessor hereby irrevocably appoints and constitutes Lessee its agent and attorney-in-fact during the Lease Term to assert and enforce from time to time, in the name of and for the account of Lessor and/or Lessee, as their interests may appear, at Lessee's sole cost and expense, whatever claims and rights Lessor may have against the Manufacturer; provided, that if at any time an Event of Default shall have occurred and be continuing, Lessor may assert and enforce, at Lessee's sole cost and expense, such claims and rights. Neither Lessor, Owner Participant nor Indenture Trustee shall have any responsibility or liability to Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Locomotive or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Locomotive or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair,

improvement or replacement of any Locomotive. Lessee's delivery of the Certificate of Inspection and Acceptance relating to the Locomotives as described in Section 2 shall be conclusive evidence as between Lessee and Lessor that each Locomotive is in all respects satisfactory to Lessee, and Lessee will not assert any claim of any nature whatsoever against Lessor, Owner Participant or Indenture Trustee based on any of the foregoing matters.

## SECTION 9. LAWS AND RULES

9.1 Compliance. Lessee agrees, for the benefit of Lessor, Owner Participant and Indenture Trustee, to comply with all laws of the United States (including without limitation, as applicable, the Locomotive Inspection Act, the Safety Appliance Acts (45 U.S.C. §§ 1-16), the Hours of Service Act (45 U.S.C. §§ 61-65) and the Federal Railroad Safety Act of 1970 (45 U.S.C. §§ 421-444)), and the jurisdictions into which its operations involving the Locomotives may extend, with the Interchange Rules of the Association of American Railroads, if applicable, and with the applicable rules of the United States Department of Transportation, the Federal Railroad Administration, the Environmental Protection Agency, any successors thereto, the ICC and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Locomotives (including, without limitation, the Railroad Locomotive Safety Standards, and related rules and regulations issued under the Locomotive Inspection Act), to the extent that such laws and rules affect the title, lease, operation, maintenance or use of the Locomotives. In the event that such laws or rules require any alteration, replacement or addition of or to any part on any Locomotive, Lessee will conform therewith at its own expense; provided, that Lessee may at its own expense and after written notice to Lessor and Indenture Trustee with respect thereto, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor or Indenture Trustee, adversely affect the property or rights of Lessor or Indenture Trustee under this Lease or under the Indenture or result in any liability, criminal or otherwise, on the part of Lessor, Indenture Trustee, Owner Participant or the holder of any Note.

9.2 Reports by Lessee. In addition to its obligations under Section 8(a) and Section 10 of the Participation Agreement, Lessee agrees to prepare and deliver to Lessor, Owner Participant and Indenture Trustee within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of Lessor and Indenture Trustee) any and all reports (other than income tax returns) to be filed by Lessor, Owner Participant or Indenture Trustee with any

federal, state or other regulatory authority by reason of the interests of Lessor, Indenture Trustee and Owner Participant in the Locomotives created pursuant to the Operative Documents or the leasing thereof to Lessee. Lessor, Owner Participant and Indenture Trustee each agree to inform Lessee of any request for such reports received by it.

## SECTION 10. MAINTENANCE

10.1 Maintenance. Lessee agrees that, at its own cost and expense, it will (i) maintain, improve, and service each Locomotive (including any parts installed on or replacements made to any Locomotive and considered an accession thereto as herein below provided) which is subject to this Lease, and comply with its own preventive maintenance schedule, and with the Manufacturer's service bulletins, manuals and preventive maintenance schedules, which will include testing, repair and overhaul of each Locomotive, so that each Locomotive will remain (a) in as good operating order and condition as when initially delivered from Manufacturer (ordinary wear and tear excepted), (b) in compliance with any and all applicable laws, regulations, requirements and rules, including, without limitation, those set forth in Section 9.1, (c) free of perforation from corrosion, erosion or other damage, and (d) desirable to and suitable for immediate purchase or lease and use by a Class I line-haul railroad engaged in intercity passenger carriage (not then or prospectively a debtor in any insolvency or reorganization proceedings) in the event of resale or release upon termination of the Lease or an Event of Default hereunder; and (ii) maintain all records, logs and other materials required by the Association of American Railroads or the United States Department of Transportation, or any other governmental authority having jurisdiction over the Locomotives or Lessee, to be maintained in respect of each Locomotive. In no event shall any Locomotive be maintained with less care or scheduled for maintenance on a basis less frequent than the maintenance or maintenance scheduling basis employed by Lessee for similar equipment owned by or operated for or by Lessee.

### 10.2 Additions and Accessions.

(i) Subject in all events to Sections 9.1 and 10.1, Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Locomotives during the Lease Term which do not adversely and materially affect the value, utility or remaining useful life of the Locomotives and are in compliance with the advance ruling guidelines of the Internal Revenue Service set forth in Revenue Procedures 75-21 and 79-48, and in any amendments or successors thereto. The additions, modifications and

improvements made by Lessee under the preceding sentence shall be owned by Lessee, except to the extent such additions, modifications or improvements are made in order to comply with Sections 9.1 and 10.2(ii), or are otherwise subject to Section 10.2(ii), and such additions, modifications and improvements shall be properly maintained and serviced by Lessee.

(ii) Any and all parts installed on and additions made to any Locomotives (a) which are replacements of existing parts constituting part of the Locomotives owned by Lessor, (b) which are not readily removable without causing damage to such Locomotive, (c) the cost of which is included in the Purchase Price of such Locomotive, (d) in the course of ordinary and proper maintenance of the Locomotives or (e) which are required by the regulations of the ICC, the United States Department of Transportation, any agency thereof, or any other applicable regulatory body, for the operation or use of such Locomotive, shall constitute accessions to such Locomotive and full ownership thereof free from any Lien (except for those created by the Indenture, other Permitted Liens and Lessor's Liens) shall immediately, and without further act or instrument, be vested in Lessor, and Lessee shall comply with all provisions of this Lease, including, without limitation, Section 16, applicable to such accessions.

(iii) Upon termination of this Lease, Lessor shall have the option to purchase from Lessee any additions, modifications or improvements not described in Section 10.2(ii) above, at the Fair Market Value of such additions, modifications or improvements. For purposes of this subsection (iii), Fair Market Value shall be determined for the applicable additions, modifications and improvements on the basis of, and shall be equal in amount to, the purchase price which would be obtained in an arm's length transaction between an informed and willing purchaser and seller (neither being a dealer and neither being under any compulsion to purchase or sell), on the assumption that the additions, modifications and improvements are in the condition required by Section 10 and Section 15.

## SECTION 11. DEFAULT.

11.1 Events of Default; Remedies. The following events shall constitute Events of Default (whether any such event shall be voluntary or involuntary or shall come about or be effected by operation of law or 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):

(1) Lessee shall fail to make any payment of Interim Rent, Basic Rent, Renewal Rent, Casualty Value or Special Casualty Value within three Business Days after the same shall become due;

(2) Lessee shall fail to make any payment of Supplemental Rent (other than Casualty Value or Special Casualty Value) when due and such failure shall continue for ten days after the earlier of the date that (a) Lessee shall have received notice from the Person entitled to such Supplemental Rent or (b) a Responsible Officer of Lessee shall have become aware thereof;

(3) Lessee shall fail to carry and maintain insurance on or with respect to any Locomotive in accordance with the provisions of Section 6.6, or shall fail to perform or observe any of the provisions of Section 6.9, Section 6.10(i)(a) or Section 24;

(4) Lessee shall sell, assign, sublease or otherwise in any manner deliver, transfer or relinquish possession of, or permit or suffer the existence of any Lien (other than Permitted Liens and Lessor's Liens), or other interest in a Locomotive, other than in accordance with Section 13;

(5) Lessee shall fail to advise Lessor, Owner Participant or Indenture Trustee that a Default or Event of Default has occurred within five Business Days after a Responsible Officer of Lessee or, with respect to Section 6.10(i)(a), an attorney in Lessee's headquarters' legal staff, has become aware thereof;

(6) Lessee shall become, or shall have been determined by any governmental agency or court to be, an Instrumentality with respect to any of the transactions entered into by Lessee under the Operative Documents;

(7) Lessee shall fail to perform or observe any covenant (other than covenants relating to matters covered by paragraphs (1), (2), (3), (4), (5) and (6) above, by paragraph 16 below, and by Section 6.10(i)(b)), condition or agreement to be performed or observed by it hereunder, under the Participation Agreement or under any ongoing obligation of Lessee relating to any Locomotive contained in the Purchase Agreement or the Purchase Agreement Assignments, and such failure shall continue unremedied for a period of 30 days (or, in the case of any covenant under this Agreement pertaining to the maintenance or modification of the Locomotives, if in any instance such covenant cannot with reasonable diligence on Lessee's part be complied with during a period of 30 days by reason of an addition of or amendment to maintenance guidance or requirements from the Manufacturer, or any regulatory body, for such period not in excess of 90 days as may be required in order for Lessee with reasonable diligence to

comply with such covenant) after the earlier of  
(a) written notice thereof to Lessee by Lessor, Indenture  
Trustee or Owner Participant or (b) such failure shall  
have become known to any Responsible Officer of Lessee;

(8) Lessee shall consent to the appointment of a  
custodian, receiver, trustee or liquidator (or other  
similar official) of itself, any Locomotive or of a  
substantial part of its property, or shall admit in  
writing its inability to pay its debts generally as they  
come due, or a court of competent jurisdiction shall  
determine that Lessee is generally not paying its debts as  
such debts become due, or Lessee shall make a general  
assignment for the benefit of creditors;

(9) Lessee shall file a voluntary petition in  
bankruptcy or a voluntary petition or an answer seeking  
reorganization in a proceeding under any bankruptcy laws  
(as now or hereafter in effect) or an answer admitting the  
material allegations of a petition filed against Lessee in  
any such proceeding, or Lessee shall, by voluntary  
petition, answer or consent, seek relief under the  
provisions of any now existing or future bankruptcy or  
other similar law providing for the reorganization or  
winding-up of debtors, or providing for an agreement,  
composition, extension or adjustment with its creditors;

(10) an order, judgment or decree shall be entered in  
any proceeding by any court of competent jurisdiction  
appointing, without the consent (express or legally  
implied) of Lessee, a custodian, receiver, trustee or  
liquidator (or other similar official) of Lessee, any  
Locomotive or any substantial part of its property, or  
sequestering any Locomotive or any substantial part of the  
property of Lessee, and any such order, judgment or decree  
or appointment or sequestration shall remain in force  
undismissed, unstayed or unvacated for a period of 60 days  
after the date of entry thereof;

(11) a petition against Lessee in a proceeding under  
applicable bankruptcy laws or other insolvency laws, as  
now or hereafter in effect, shall be filed and shall not  
be stayed, withdrawn or dismissed within 60 days  
thereafter, or if, under the provisions of any law  
providing for reorganization or winding-up of debtors  
which may apply to Lessee, any court of competent  
jurisdiction shall assume jurisdiction, custody or control  
of Lessee, any Locomotive or any substantial part of its  
property and such jurisdiction, custody or control shall  
remain in force unrelinquished, unstayed or unterminated  
for a period of 60 days;

(12) any additional procedure similar to those referred to in subsections (8), (9), (10) or (11) above, for the relief of financially distressed debtors under applicable laws is entered into by Lessee voluntarily or involuntarily and, if such procedure shall have been entered into involuntarily, shall be unstayed and remain in effect for a period of 60 consecutive days;

(13) any written representation or warranty made by Lessee herein, in the Participation Agreement or in any other Operative Document (other than the Tax Indemnity Agreement) or made by Lessee or any other person in any certificate or other document delivered or caused to be delivered by Lessee in connection herewith or therewith shall prove at any time to have been in error in any material respect when made and such error shall be material at the time when the notice or knowledge referred to below shall have been given to or obtained by Lessee and shall not have been cured (as of the date of cure) within 30 days after the earlier of (a) written notice thereof to Lessee by Lessor, Indenture Trustee or Owner Participant or (b) such incorrectness shall have become known to any Responsible Officer of Lessee;

(14) Lessee shall fail (i) to make any payment when scheduled with respect to any Debt (as defined below) or (ii) to observe or perform any covenant contained in the agreement or instrument relating to such Debt and any such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Debt, if as a result of such failure, the maturity of such Debt is accelerated and, in the case of an event described in clause (ii) that Lessee is contesting in good faith, Lessee shall not have provided adequate reserves in connection therewith to the extent required by generally accepted accounting principles. For the purposes of this clause (14), "Debt" means \$2,500,000 or more of (I) indebtedness for borrowed money in respect of which Lessee is, at the time of such acceleration, liable as obligor or guarantor or (II) obligations under leases in respect of which Lessee is liable as obligor or guarantor;

(15) any sublessee in possession of any Locomotive pursuant to provisions of Section 13 shall fail, whether by reason of institution of bankruptcy, insolvency or other proceedings, or otherwise, to surrender possession of such Locomotive to Lessee within 30 days after the expiration or earlier termination of the sublease under which any such sublessee obtained possession of any such Locomotive; or

(16) Lessee shall fail to notify Lessor and Owner Participant that Lessee has made any Claim of Instrumentality described in Section 6.10(i)(b) within

30 days after the date such Claim of Instrumentality becomes known to any Responsible Officer of Lessee or an attorney in Lessee's headquarters' legal staff.

then, in any such case, Lessor, at its option, may declare this Lease in default, and, at its option, may exercise one or more of the following rights, powers or remedies as Lessor in its sole discretion shall determine to the extent not prohibited by, and subject to compliance with any mandatory requirements of, applicable law then in effect:

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

(ii) by notice in writing to Lessee terminate this Lease, whereupon all rights of Lessee to the use of the Locomotives shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as herein provided; and thereupon Lessor may by its agents enter upon the premises of Lessee or other premises, insofar as Lessee may be lawfully authorized to so permit, where any of the Locomotives may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Locomotives and thenceforth hold, possess, sell, operate, lease and enjoy the same free from any right of Lessee, or its successors or assigns, to use the Locomotives for any purposes whatsoever and without any duty to account to Lessee for such action or inaction or for any proceeds arising therefrom (any such proceeds to be first applied to Lessee's obligations hereunder); but Lessor shall nevertheless have a right to recover from Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of termination (computing the rent for any period ending prior to December 29, 2008, or during the Initial Renewal Term or the Subsequent Renewal Term, for any number of days less than that of the full period by multiplying the rent for such full period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full period) and also to recover forthwith from Lessee as damages for loss of the bargain and not as a penalty all of the following amounts that Lessor, in its sole discretion, shall specify with respect to each Locomotive (A) all amounts of Interim Rent, Basic Rent, Renewal Rent and Supplemental Rent past due and owing under the Lease, plus (B) any damages and expenses, including reasonable attorneys' fees, in addition thereto which Lessor shall have sustained by reason of the breach of any covenant, representation or

warranty of this Lease other than for the payment of rental, plus (C) all expenses and costs associated with Lessor's exercise of its remedies hereunder, including without limitation, all selling, re-leasing, storage, maintenance, repair and insurance costs, and all related attorneys' fees, plus (D) in Lessor's sole discretion, either (I) the excess of the then-present value of the entire unpaid balance of all rent hereunder which would, but for Lessee's default, have accrued hereunder from the date of such default to the end of the Basic Term, Initial Renewal Term or Subsequent Renewal Term, as the case may be (to be computed on the basis of a discount rate equal to the Federal Reserve Discount Rate, computed quarterly for the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated) over the then-present value of the rental (determined, at Lessee's expense, by an independent appraiser selected by Lessor) obtainable at such time for such Locomotive (to be computed on the basis of a discount rate equal to the Federal Reserve Discount Rate, computed quarterly for the respective dates upon which rents would have been payable hereunder had this Lease not been terminated), or (II) the sum of an amount equal to the excess, if any, of the Casualty Value as of the Rent Payment Date or Renewal Rent payment date on or next preceding the date of termination over either (a) the amount determined by the appraisal procedure described in Section 14.3(ii) (at Lessee's expense) to be the fair market value of such Locomotive, determined in accordance with Section 14.3 hereof, except that such Locomotive shall be valued in its actual condition at such time or (b) in the event Lessor shall have sold any Locomotive, the net proceeds of such sale; and

(iii) exercise any other right, power or remedy which may be available to Lessor under applicable law or proceed by court action to enforce the terms hereof or to recover damages for the breach hereof or to rescind this Lease.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Interim Rent, Basic Rent, Renewal Rent and Supplemental Rent due hereunder before or during the exercise of any of the foregoing rights, powers or remedies and for all legal fees and other costs and expenses incurred by Lessor, Indenture Trustee, Owner Participant or any holder of a Note by reason of the occurrence of any Event of Default or the exercise of any of Lessor's rights, powers or remedies with respect thereto, including all costs and expenses incurred in connection with the surrender of the Locomotives or in placing the Locomotives in the condition required hereby,

together, in each case, with interest thereon at the Overdue Rate; provided, that if the Locomotives have been repossessed pursuant to clause (ii) immediately above or otherwise, Lessee's obligation to pay Interim Rent, Basic Rent and Renewal Rent that are not then overdue shall terminate as of the date of such repossession.

At any sale pursuant to this Section 11.1, Lessee, Owner Participant, Indenture Trustee and any holder of a Note, or any of the foregoing, may bid for and purchase any or all of the Locomotives; provided, that Lessee shall not be entitled to bid for any such sale unless and until all amounts, other than the proposed bid price for any such Locomotives, then due and payable by Lessee under the Operative Documents, shall have been paid to the parties entitled thereto.

No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any other Event of Default.

11.2 Remedies Not Exclusive; Waiver. The remedies provided in this Lease in favor of Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is effective under applicable law. Lessee hereby waives any and all existing or future claims to any offset against the Rent payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by Lessee or on its behalf.

Except as otherwise provided in this Lease, Lessee, to the full extent effective under applicable law, hereby waives all statutory or other legal requirements for any notice of any kind, any other requirements with respect to the enforcement of Lessor's rights under this Lease and any and all rights of redemption.

11.3 Failure to Exercise Rights Is Not Waiver. The failure of Lessor, Owner Participant, Indenture Trustee or any holder from time to time of any Note to exercise the rights granted it hereunder upon the 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 upon the occurrence of any similar contingencies.

## SECTION 12. RETURN OF LOCOMOTIVES UPON DEFAULT

12.1 Return of Locomotives. Upon the earlier of the date of notice of termination by Lessor pursuant to Section 11.1(ii) or the date of termination of this Lease pursuant to Section 11, Lessee shall forthwith deliver possession of the Locomotives to Lessor. Each Locomotive so delivered shall be in as good operating order and condition as when initially delivered from Manufacturer (ordinary wear and tear excepted), comply with all laws and rules referred to in Section 9.1, have attached or affixed thereto any addition, modification or improvement considered an accession thereto as provided in Section 10 and have removed therefrom in a workmanlike manner if so requested by Lessor or Indenture Trustee, at Lessee's expense (i) any addition, modification or improvement which, as provided in Section 10, is owned by Lessee, and is not purchased by Lessor pursuant to Section 10.2(iii), and (ii) any insignia permitted pursuant to Section 5.2. Notwithstanding the foregoing, each Locomotive shall be in a condition at least as good as such Locomotive would have been in had it been maintained in accordance with all the terms and conditions of this Lease. For the purpose of delivering possession of any Locomotive or Locomotives as above required, Lessee shall at its own cost, expense and risk:

(a) forthwith take action (including, without limitation, giving prompt telegraphic and written notice to all persons which may have possession thereof to return the Locomotive or Locomotives (and any legally required notice to the Association of American Railroads) to place such Locomotives upon such storage tracks as Lessor may designate as soon as possible;

(b) cause such Locomotives to be stored on such tracks at the risk of Lessee without charge to Lessor, Indenture Trustee, Owner Participant or any holder from time to time of any Note for insurance, rent or storage until all such Locomotives have been sold, leased or otherwise disposed of by Lessor; and

(c) cause the same to be transported to any place within the continental United States as directed by Lessor.

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

will, at its own cost and expense, maintain and keep the Locomotives in the manner set forth in Section 10.1, insure the Locomotives in accordance with the provisions of Section 6.6 and permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or other user of any Locomotive, to inspect the same. All amounts earned in respect of the Locomotives after the earlier of the date of notice of termination by Lessor pursuant to Section 11.1(ii) or the date of termination of this Lease shall belong to Lessor and, if received by Lessee, shall be promptly remitted to Lessor. In the event any Locomotive is not assembled, delivered and stored as hereinabove provided, Lessee shall, in addition, pay to Lessor for each day thereafter an amount equal to the per diem equivalent of the Basic Rent or Renewal Rent, as the case may be, then in effect immediately prior to such termination; provided, that such payment shall not affect the obligation of Lessee to redeliver the Locomotives in accordance with the first sentence of this Section 12.1 and shall not limit the damages Lessor may seek for Lessee's breach of this covenant.

12.2 Lessor Appointed Agent of Lessee. Without in any way limiting the obligation of Lessee under the foregoing provisions of this Section 12, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee, with full power and authority to exercise Lessor's rights under this Section 12, at any time while Lessee is obligated to deliver possession of any Locomotive to Lessor, to demand and take possession of such Locomotive in the name and on behalf of Lessee from whomever shall then be in possession of such Locomotive.

### SECTION 13. ASSIGNMENT, POSSESSION AND USE

13.1 Assignment; Consent; Security for Lessor's Obligations to Holders of Notes. In order to secure the indebtedness evidenced by the Notes, the Indenture provides, among other things, for the assignment, by Lessor to Indenture Trustee, of this Lease to the extent set forth therein and for the creation of a first priority security interest in the Trust Indenture Estate in favor of Indenture Trustee for the benefit of the holders from time to time of the Notes. Lessee hereby consents to the assignment by Lessor of Lessor's right, title and interest in and to this Lease to, and such creation of a first priority security interest in the Locomotives in favor of, Indenture Trustee pursuant to the terms of, and to the extent set forth in, the Indenture, and agrees that, so long as any Notes are outstanding, all payments of Interim Rent, Basic Rent and Renewal Rent payable hereunder shall be made to Indenture Trustee at The Connecticut Bank and Trust Company, National Association, One Constitution Plaza, Hartford, Connecticut 06115, Account No. 000-089-2, Attention: Corporate

Trust Department, and thereafter by federal wire transfer to Lessor at Bankers Trust Company, 16 Wall Street, New York, New York for credit to Wilmington Trust Company's Account. No. 01-5-0072-8, Attention: Corporate Trust Administration, Reference: Amtrak 12/88, or at such place or to the attention of such person or department as Indenture Trustee or Lessor, as the case may be, may specify from time to time in writing delivered to Lessee not less than five Business Days prior to the due date of the payment to be made at the place specified in such writing. Lessee acknowledges that such assignment and security interest provide for the exercise by Indenture Trustee (but, except as specified in the Indenture, not to the exclusion of Lessor) of all rights of Lessor hereunder (other than with respect to Excepted Rights and as set forth in the Indenture) to give any consents, approvals, waivers, notices or the like, to make any elections, demands or the like or to take any other discretionary action hereunder and acknowledges receipt of an execution counterpart of the Indenture as in effect as of the date hereof.

13.2 Lessee's Rights to Use the Locomotives, to Permit Use Thereof by Others and to Sublease the Locomotives; No Liens.

(i) So long as no Event of Default shall have occurred and be continuing hereunder, Lessor agrees that Lessee shall be entitled to the quiet enjoyment, possession and use of the Locomotives in accordance with the terms of this Lease. Lessee agrees to use or cause the Locomotives to be used solely within the United States, any such use to be subject to the requirements of paragraph (iii) below and Section 16.2. Lessee shall not sublease its leasehold interest under this Lease in the Locomotives or any of them except (a) as provided in paragraph (ii) below or (b) pursuant to such arrangements and to such parties as shall be subject to the approval (evidenced by a written instrument) of Lessor and Indenture Trustee. Lessee will not, directly or indirectly, create, incur, assume or suffer to exist any Lien on or with respect to any Locomotive, any part thereof, the title thereto or any interest therein (other than Permitted Liens and Lessor's Liens). Without limiting the generality of the foregoing, Lessee, at its own expense, will forthwith pay or discharge any and all sums claimed by any party which, if unpaid, might become a Lien (other than Permitted Liens and Lessor's Liens) upon or with respect to any Locomotive (including any accession thereto), or the interest of Lessor, Owner Participant, Indenture Trustee or Lessee therein, and will promptly discharge any such Lien which arises; provided, that Lessee may contest in good faith the validity of any such Liens if such contest does not and will not materially adversely affect the lien of the Indenture or the title of Lessor.

(ii) So long as no Event of Default shall have occurred and be continuing hereunder, Lessee shall be entitled to the possession and use of the Locomotives in the Northeast Corridor upon lines of railroad owned or operated by it or upon lines of railroad over which Lessee has trackage or other operating rights and shall be entitled to sublease the Locomotives, to a user incorporated in or organized under the laws of the United States (or any State thereof or the District of Columbia), for use upon lines of railroad owned or operated by Lessee or such user or by a railroad company or companies incorporated in the United States (or any State thereof or the District of Columbia), but only upon terms subject to all the terms and conditions of this Lease and the Indenture; provided, that without Lessor's prior written consent (which shall not be unreasonably withheld), no such sublease (other than to a subsidiary of Lessee) shall be for a period in excess of six months; provided further, that Lessee's obligations hereunder shall continue in full force and effect as the obligations of a principal and not of a surety irrespective of any such sublease; and provided further, that Lessee shall not, without Lessor's prior written consent, sublease the Locomotives to, or permit the sublease of the Locomotives to, or by, any Person (a) who shall use any Locomotive in service involving operation or maintenance outside the Northeast Corridor, (b) who shall then be in default with respect to the payments of money under any instrument evidencing indebtedness or with respect to any liability for borrowed money or for the deferred purchase price of property if the aggregate amount of all such indebtedness, liabilities and purchase prices under or with respect to which such Person is then in default exceeds 5% of such Person's net worth or capital and surplus, or (c) who shall then be engaged in any proceedings for relief under any bankruptcy or insolvency law or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, compositions or extensions of indebtedness. So long as no Event of Default shall have occurred and be continuing, Lessee may receive and retain compensation for the use of any of the Locomotives from railroads or other entities so using such Locomotives. Each sublease permitted by this paragraph shall (I) be expressly subject and subordinate to all of the provisions of this Lease and to the rights and remedies of Indenture Trustee under the Indenture and Lessor under this Lease in respect of the Locomotives covered by such sublease upon the occurrence of an Event of Default thereunder or hereunder, (II) expressly require the Locomotives subject thereto to be returned at the end of such sublease or at such earlier time as directed by Lessor forthwith upon notice to such sublessee that an Event of Default shall have occurred and be continuing, (III) expressly require compliance with Section 13.2(iii) below, and (IV) expressly prohibit any further sublease of the Locomotives subject thereto. Lessee shall, within five days after the

execution of any such sublease, deliver a true and complete copy thereof to Owner Participant, Lessor and, so long as Notes are outstanding under the Indenture, Indenture Trustee, and execute an assignment of all of Lessee's rights under the sublease to Lessor in form and substance reasonably acceptable to Lessor and, so long as Notes are outstanding under the Indenture, to Indenture Trustee, which assignment shall, among other things, include the delivery of the executed counterpart of such sublease that constitutes chattel paper (or other collateral) to Lessor or, so long as Notes are outstanding under the Indenture, Indenture Trustee.

(iii) Lessee covenants that Lessee (or any sublessee) (a) will at all times during the Lease Term use each Locomotive in such a way that for federal income tax purposes, all amounts includable in the gross income of Lessor with respect to each Locomotive will be treated as derived from, or allocable to, sources within the United States and (b) will maintain sufficient records to determine all amounts that for federal income tax purposes are includable in the gross income of Lessor with respect to each Locomotive and all deductions allowable to Lessor with respect to each Locomotive that will be treated as derived from, or allowable to, sources within the United States, which records shall be furnished to Lessor within 30 days after receipt of a written request therefor.

13.3 Transfers by Lessee Through Merger, Acquisition or Consolidation. Lessee shall not merge into or consolidate with any other corporation or other entity or sell, lease or transfer or otherwise dispose of all or substantially all of its assets without the prior written consent of Lessor, Indenture Trustee and a Majority in Interest of Noteholders (which consent shall not be unreasonably withheld). For purposes of this Section 13.3, a transfer of the ownership of 50% or more of the outstanding capital stock of Lessee owned by the United States government or any Instrumentality which involves the Cessation of Substantial Financial Commitment by the United States government shall be considered a transfer of substantially all its assets.

13.4 Transfers by Lessor or Owner Participant. Subject to Section 10.01 of the Trust Agreement, with respect to Lessor, and Section 12 of the Participation Agreement and Section 12.09 of the Trust Agreement, with respect to Owner Participant, Lessor and Owner Participant shall be entitled to transfer their respective interests in this Lease and the Trust Estate without the prior approval of Lessee. Unless an Event of Default has occurred and is continuing, no such transfer by Lessor or Owner Participant shall interfere with Lessee's rights under this Lease with respect to Lessee's use of the Locomotives.

## SECTION 14. PURCHASE OPTION; RENEWAL OPTION

### 14.1 Purchase Option.

(i) If this Lease has not been earlier terminated and no Default or Event of Default has occurred and is continuing hereunder (either on the date of delivery of the written notice referred to below or on the date for payment specified below), then Lessee may, (a) by written notice delivered to Lessor not less than 180 days prior to the end of the Basic Term, elect to purchase all, but not less than all, of the Locomotives then subject to this Lease at a purchase price equal to the lesser of the Fair Market Value thereof (as determined below) or 46% of the total Purchase Price for the Locomotives, payable on the last day of the Basic Term, or (b) by written notice delivered to Lessor during the Renewal Term not less than 180 days prior to the end of the Renewal Term, elect to purchase all, but not less than all, of the Locomotives at a purchase price equal to the Fair Market Value thereof (as determined below) payable on the last day of the Renewal Term.

(ii) If this Lease has not been earlier terminated and no Default or Event of Default has occurred and is continuing hereunder on the date for payment, then, upon payment of the purchase price of all of the Locomotives pursuant to an exercise by Lessee of its option to purchase such Locomotives under this Section 14.1, Lessor shall, upon request of Lessee, execute and deliver to Lessee, or Lessee's assignee or nominee, a bill of sale for such Locomotives such as will transfer to Lessee title to such Locomotives, "as-is, where-is and with all faults" and without recourse, representation or warranty (express or implied), except that the Locomotives are free and clear of all Lessor's Liens and all liens under the Swedish Financing Documents.

14.2 Renewal Option. If this Lease has not been earlier terminated and no Default or Event of Default shall have occurred and be continuing (either on the date of delivery of the written notice referred to below or on the effective date of the renewal), Lessee may, (i) by written notice delivered to Lessor not less than 180 days prior to the end of the Basic Term, with respect to all, but not less than all, of the Locomotives still subject to this Lease, elect to extend this Lease for the Initial Renewal Term and (ii) by written notice delivered to Lessor during the Initial Renewal Term not less than 180 days prior to the end of the Initial Renewal Term, with respect to all, but not less than all, of the Locomotives still subject to the Lease, elect to extend this Lease for the Subsequent Renewal Term. Renewal Rent shall be an amount equal to the Fair Market Rental for such Locomotives (provided that during the Initial Renewal Term the quarterly Renewal Rent payment amount shall not exceed 50% of the average annual Basic Rent payment amount divided by four). Renewal Rent for such

Locomotives shall be payable to Lessor in quarterly payments, in arrears, on each Rent Payment Date during the Renewal Term, commencing March 30, 2009.

14.3 Determination of Fair Market Value and Fair Market Rental.

(i)(a) Fair Market Value shall be determined for the Locomotives on the basis of, and shall be equal in amount to, the purchase price which would be obtained in an arm's length transaction between an informed and willing purchaser and seller (neither being a dealer and neither being under any compulsion to purchase or sell), on the assumption that the Locomotives are in the condition required by Section 10 and Section 15, and, in such determination, cost of removal from the location of current use shall not be a deduction from such purchase price; and (b) "Fair Market Rental" shall be determined for the Locomotives on the basis of, and shall be equal in amount to, the rent which would be obtained in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor, neither being under any compulsion to lease, and, in such determination, it shall be assumed that the Locomotives for which such determination is being made are in the condition required by Section 10 and Section 15, and in such determination, cost of removal from the location of current use shall not be a deduction from Fair Market Rental.

(ii) If, after 90 days from the giving of notice to Lessor of Lessee's election to purchase the Locomotives or exercise its renewal option, Lessor and Lessee are unable to agree after negotiating in good faith upon a determination of the Fair Market Value or Fair Market Rental, as the case may be, of the Locomotives, the Fair Market Value or Fair Market Rental, as the case may be, shall be determined in accordance with the foregoing definitions by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such Fair Market Value or Fair Market Rental by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is appointed within 25 days after such notice is given, either party may apply to the American Arbitration Association to make such appointment, and both parties shall be bound by an appointment so made. Any appraiser appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Value or Fair Market Rental, as the case may be, of such Locomotives within 20 days after his or her appointment. The determination of Fair Market Value or Fair Market Rental by the single appraiser appointed shall be final and binding upon the parties. The appraisal proceedings shall be conducted in accordance with the Commercial

Arbitration Rules of the American Arbitration Association as in effect as of the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Value or Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert or commence any such judicial or other procedures. The expenses of the appraisal procedure shall be divided equally between Lessee and Lessor.

#### SECTION 15. RETURN OF LOCOMOTIVES UPON EXPIRATION OF TERM

Upon the expiration of the Lease Term, or any other termination of this Lease as a result of which Lessor is entitled to possession of the Locomotives, except pursuant to Section 11, Lessee shall return all Locomotives to Lessor by causing such Locomotives to be moved, at Lessee's expense, onto such of Lessee's storage tracks or facilities as Lessor and Lessee shall mutually agree. Lessee shall at Lessee's expense permit Lessor to store such Locomotives on such tracks or facilities for a period not exceeding 120 days and shall transport the same at any time within such 120-day period to any interchange point within the Northeast Corridor for shipment, as directed by Lessor. During any such storage period, risk of loss of the Locomotives shall be the responsibility of Lessor; provided, that any damage or loss to any Locomotive resulting from gross negligence or willful misconduct of Lessee or from Lessee's use or transport of any Locomotive to and from storage locations and to an interchange point shall be the responsibility of the Lessee. During any such storage period Lessee will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Locomotive, to inspect the same. Lessee agrees upon the request of Lessor to provide at the Lessor's expense, (A) if then-available, insurance of the type customarily carried for Locomotives in storage with deductibles to be approved by Lessor, and (B) based upon Lessee's then-prevailing terms and conditions therefor, such maintenance services for the Locomotives as Lessor shall request. Each Locomotive returned to Lessor pursuant to this Section 15 shall (i) be in as good operating order and condition as when initially delivered from Manufacturer (ordinary wear and tear excepted), (ii) meet the standards then in effect required for a third party purchaser or third party lessee immediately to operate such Locomotive without further inspection, repair, replacement, alterations or improvements under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any government agency or other organization with jurisdiction, (iii) be free of perforation from corrosion, erosion or other damage, (iv) be in compliance with any and all applicable laws,

regulations, requirements and rules, including without limitation, those set forth in Section 9.1, (v) have attached or affixed thereto any addition, modification or improvement considered an accession thereto as provided in Section 10 and (vi) if requested by Lessor, at Lessee's expense, have removed therefrom any such addition, modification or improvement which, as provided by Section 10, is owned by Lessee and is not purchased by Lessor pursuant to Section 10.2(iii). Notwithstanding the foregoing, each Locomotive shall be in a condition at least as good as such Locomotive would have been in had it been maintained in accordance with all the terms and conditions of this Lease. During any such storage period Lessee shall at Lessor's expense (based upon Lessee's then prevailing terms and conditions therefor) maintain the Locomotives in such manner as Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances, but in any event in no less manner than is set forth in Section 10.1.

The assembling, delivery, storage and transporting of the Locomotives as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to assemble, deliver, store and transport the Locomotives. All net amounts earned in respect of the Locomotives after the expiration of the original term or any extended term hereof shall belong to Lessor, and shall be paid over forthwith to Lessor (subject, so long as Notes are to be outstanding under the Indenture, to the Indenture).

Any Locomotive not delivered on the date of expiration of the Lease Term, any renewal thereof, or any prior termination of this Lease, or any Locomotive not delivered in accordance with Section 12 or this Section 15, as the case may be, shall continue to be subject to all of the obligations of Lessee set forth in this Lease. If the Lessee shall, for any reason whatsoever, fail to return any Locomotive at the time specified herein, the obligations of Lessee as provided in this Lease shall continue in effect with respect to such Locomotive until the Locomotive is returned to Lessor; but this paragraph shall not be construed as permitting Lessee to fail to meet its obligations to return any Locomotive in accordance with the requirements of this Lease or constitute a waiver of an Event of Default.

## SECTION 16. RECORDING

16.1 ICC; States. Lessee, at its own expense, will cause this Lease, the Lease Supplement relating to the Locomotives being delivered on the first Delivery Date, the Indenture, the

Indenture Supplement relating to the Locomotives being delivered on the first Delivery Date, and all Lease Supplements and the Indenture Supplements to be filed with the ICC pursuant to 49 U.S.C. § 11303 prior to the delivery and acceptance hereunder of any Locomotive. Lessee, at its own expense, will further cause this Lease, the Indenture and/or appropriate financing statements or continuation statements to be filed and recorded and, from time to time when required, refiled and rerecorded, in accordance with the applicable provisions of the Uniform Commercial Code as in effect in the District of Columbia (and, if Lessee changes its chief executive office to any state, in such state) and in any other state of the United States or the District of Columbia where filing is necessary or reasonably requested by Lessor or any holder from time to time of any Note for the purpose of proper protection, to the satisfaction of counsel to Owner Participant and any holder from time to time of any Note, of their interests and rights under this Lease and the Indenture for the purpose of carrying out the intention of this Lease and the Indenture (such filings to include filings against the Lessee, and the assignment thereof to Indenture Trustee, as if Lessor's interest in this Lease represented a security interest, it being understood, however, that any such filings will be of a protective nature and that it is the essence of the transactions contemplated by the Operative Documents that this Lease is and be construed as a true lease).

16.2 Continuing Obligations. Lessee, in addition to the requirements of Section 16.1 above, will from time to time do and perform in a timely manner any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law (including without limitation continuation statements) or reasonably requested by Lessor, Owner Participant or any holder from time to time of any Note for the purpose of proper protection, to its satisfaction, of its respective interests in the Locomotives, or for the purpose of carrying out the intention of this Lease and the Indenture (including without limitation any such filing, registering, depositing or recording required or deemed necessary by Lessor or Indenture Trustee in connection with Lessee's compliance with Section 10.1); and Lessee will promptly furnish to Lessor, Indenture Trustee and each other holder from time to time of any Note which shall have requested the same evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for Lessee with respect thereto satisfactory to Lessor, Owner Participant, Indenture Trustee and each such holder of a Note.

SECTION 17. LESSOR'S RIGHT TO PERFORM FOR LESSEE

If Lessee fails to perform or comply with any of its agreements contained herein, Lessor may upon notice to Lessee (but shall be under no obligation to) perform or comply with such agreement, and the amount of the reasonable costs and expenses of Lessor incurred in connection with such performance or compliance, together with interest on such amount at the Overdue Rate shall be payable by Lessee upon demand. No such performance or compliance by Lessor shall be deemed a waiver of the rights and remedies of Lessor, Indenture Trustee or any assignee of Lessor against Lessee hereunder.

SECTION 18. NOTICES

(a) Unless otherwise expressly specified or permitted by the terms hereof, notices and other communications required or permitted to be given or made under the terms hereof shall be in writing. Any such communication or notice shall be deemed to have been duly made or given (i) when delivered personally, (ii) when transmitted by facsimile, (iii) in the case of mail delivery, three Business Days after any such communication or notice shall have been deposited in the United States mail for transmission by first class mail, postage prepaid or (iv) in the case of overnight delivery, one Business Day after any such communication or notice shall have been deposited with a nationally recognized overnight courier for overnight delivery that provides confirmation of delivery; and if addressed to the intended recipient as follows (subject to the next sentence of this Subsection (a)):

Name of Party

Lessee

National Railroad Passenger  
Corporation  
400 North Capitol Street, N.W.  
Washington, D.C. 20001  
Attention: Treasurer  
Facsimile No.: (202) 383-2116

Owner Participant

PacifiCorp Finance, Inc.  
Suite 2800  
U.S. Bancorp Tower  
111 Southwest Fifth Avenue  
Portland, Oregon 97204  
Attention: Senior Vice President  
Facsimile No.: (503) 274-6545

Owner Trustee	Wilmington Trust Company Rodney Square North Wilmington, Delaware 19890 Attention: Corporate Trust Administration Facsimile No.: (302) 651-8464
Indenture Trustee	The Connecticut Bank and Trust Company, National Association One Constitution Plaza Hartford, Connecticut 06115 Attention: Corporate Trust Department Facsimile No.: (203) 244-6999
Note Purchaser	The Mutual Life Insurance Company of New York 1740 Broadway New York, New York 10019 Attention: MONY Capital Management Facsimile No.: (212) 708-2491
Each Subsequent Holder of a Note	The address contained in the Note Register

in each case, to the extent not otherwise received, with a copy to Indenture Trustee at the address specified above. Each party hereto may from time to time designate by notice in writing to the other parties hereto a different address for communications and notices.

#### SECTION 19. SEVERABILITY

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

#### SECTION 20. EFFECT AND MODIFICATION OF THIS LEASE

Except for the Operative Documents referred to herein, this Lease exclusively and completely states the rights of Lessor and Lessee with respect to the leasing of the Locomotives and supersedes all other agreements, oral or written, with respect thereto. Subject to Section 8.04 and

Article XIII of the Indenture and Section 7.3 of the Swedish Lease, no variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for Lessor and Lessee, and if required by the Indenture, Indenture Trustee.

#### SECTION 21. THIRD-PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than Owner Participant, Indenture Trustee and each holder from time to time of a Note and the permitted successors and assigns of any such person and any party hereto) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

#### SECTION 22. EXECUTION

This Lease may be executed in several counterparts (or upon separate signature pages bound together into one or more counterparts), such counterparts together constituting but one and the same instrument. To the extent, if any, that this Lease or any Lease Supplement constitutes chattel paper or other collateral within the meaning of the Uniform Commercial Code (or other law respecting security interests) as in effect in any applicable jurisdiction, no security interest in this Lease or such Lease Supplement may be created through the transfer or possession of any counterpart of this Lease or such Lease Supplement other than the original executed counterpart hereof or thereof which shall be identified as the counterpart containing the receipt therefor executed by Indenture Trustee on or immediately following the signature page hereof or thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

#### SECTION 23. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the District of Columbia; provided, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303.

#### SECTION 24. WAIVER OF SOVEREIGN IMMUNITY

Lessee acknowledges and agrees that the activities contemplated by this Lease and the other Operative Documents

are commercial in nature rather than governmental or public and therefore acknowledges and agrees that it is not entitled to any right of immunity upon the grounds of sovereignty or otherwise with respect to such activities or in any legal action arising out of or relating to this Lease or any other Operative Document. To the extent effective under law, Lessee, in respect of itself and its properties and revenues, expressly and irrevocably waives any right of immunity (including any immunity from the jurisdiction of any court or from any execution or attachment in aid of execution prior to judgment or otherwise) or claim thereto which may now or hereafter exist, and agrees not to assert any such right or claim in any such action or proceeding.

#### SECTION 25. IMMUNITIES; NO RECOURSE

No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director, officer, employee, agent or Affiliate, as such, past, present or future, of the parties hereto, or any third party beneficiaries hereunder, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors, officers, employees, agents or Affiliates as such, being forever released as a condition of and as consideration for the execution of this Lease.

#### SECTION 26. AGREEMENTS FOR BENEFIT OF LESSOR'S ASSIGNS

All rights of Lessor hereunder shall inure to the benefit of Lessor's assigns (including Indenture Trustee).

#### SECTION 27. LESSOR

Whenever the term "Lessor" is used in this Lease it shall apply and refer to Lessor and any assignee of Lessor (including, so long as any indebtedness evidenced by the Notes or interest thereon shall remain unpaid or any other obligation thereunder be continuing, Indenture Trustee).

#### SECTION 28. LIABILITY OF LESSOR LIMITED

It is expressly agreed, anything herein to the contrary notwithstanding, that each and all of the representations, warranties, covenants, undertakings and agreements herein made on the part of Lessor are made and intended not as personal

representations, warranties, covenants, undertakings and agreements by Wilmington Trust Company, or for the purpose or with the intention of binding Wilmington Trust Company personally, but are made and intended for the purpose of binding only the Trust Estate, and this Lease is executed and delivered by Wilmington Trust Company not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and no personal liability or personal responsibility, except in the case of willful misconduct or gross negligence of Lessor (other than with respect to the handling of funds, in which case Lessor shall be accountable for its failure to exercise ordinary care), is assumed by or shall at any time be asserted or enforceable against Wilmington Trust Company on account of this Lease or on account of any representation, warranty, covenant, undertaking or agreement of Lessor, either expressed or implied herein, all such personal liability, if any, being expressly waived and released by Lessee and by all persons claiming by, through or under it, and that all recourse against Wilmington Trust Company or Owner Participant under this Lease shall be limited to the Trust Estate.

#### SECTION 29. NOTICE AS TO LIENS

LESSEE SHALL NOT HAVE ANY RIGHT, POWER, PRIVILEGE OR AUTHORITY TO CREATE OR INCUR ANY LIEN UPON LESSOR'S INTEREST IN THE LOCOMOTIVES. NOTICE IS HEREBY GIVEN TO ALL CONTRACTORS, SUBCONTRACTORS, LABORERS, MATERIALMEN AND OTHER PERSONS THAT LESSOR WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED TO LESSEE AND THAT NO LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT LESSOR'S INTEREST IN THE LOCOMOTIVES.

#### SECTION 30. NATURE OF THIS LEASE

This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any title to or ownership of the Locomotives, the rights and interest of Lessee hereunder with respect to and in the Locomotives being those of a lessee only.

#### SECTION 31. NO MERGER

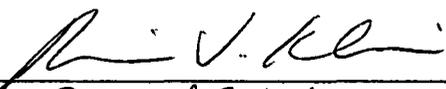
There shall be no merger of this Lease or of the leasehold interest hereby created with the title to the Locomotives, or any portion thereof or interest therein by reason of the fact that the same person may acquire or hold directly or indirectly this Lease or the leasehold interest created hereby or any interest in this Lease or in any such leasehold interest as well as the title to the Locomotives.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease of Railroad Equipment as of the day and year first above written.

WILMINGTON TRUST COMPANY, not  
in its individual capacity but  
solely as Owner Trustee,  
except as expressly provided herein,  
Lessor

By   
Name: James P. Lawler  
Title: Financial Services Officer

NATIONAL RAILROAD PASSENGER CORPORATION,  
Lessee

By   
Name: Richard E. Klein  
Title: Treasurer

District )  
 ) ss.  
of Columbia )

On this 14<sup>th</sup> day of Dec, 1988, before me personally appeared James P. Lawler to me personally known, who, being by me duly sworn, did say that he is a Fin Serv. Officer of WILMINGTON TRUST COMPANY that the instrument was signed on behalf of such 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 such corporation.

Elaine C. Haynes  
Notary Public

My commission expires

~~My Commission Expires June 30, 1993~~

District )  
 ) ss.  
of Columbia )

On this 14<sup>th</sup> day of Dec, 1988, before me personally appeared Richard T. Klein, to me personally known, who, being by me duly sworn, did say that he is a Treasurer of NATIONAL RAILROAD PASSENGER CORPORATION that the instrument was signed on behalf of such 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 such corporation.

Elaine C. Haynes  
Notary Public

My commission expires

~~My Commission Expires June 30, 1993~~

CERTAIN DEFINITIONS

The following terms shall have the following meanings for all purposes of the Operative Documents (as modified, amended or supplemented from time to time) to which this Annex A is appended and such meanings shall be equally applicable to both the singular and plural forms of the terms defined in this Annex A:

"Accredited Investor" has the meaning specified in Rule 501(a) of Regulation D promulgated under the Securities Act.

"Act" means the Interstate Commerce Act (49 U.S.C. § 10101 et seq.), as amended from time to time.

"Additional Insureds" means Lessor, in its individual capacity and as Owner Trustee, Owner Participant, Indenture Trustee and the holders of the Notes.

"Affiliate" of any Person means any other Person controlling, controlled by, or under common control with, such Person.

"Aggregate Casualty Payment" has the meaning specified in Section 6.1 of the Lease.

"Aggregate Debt Limit" means \$20,000,000.

"Appraiser" means B. Royce Green Associates.

"Authorized Officer" means the President, any Vice President, any Assistant Vice President, or, with respect to Owner Trustee and Indenture Trustee, any Senior Financial Services Officer, any Financial Services Officer, or any other Officer in the Corporate Trust Administration or Corporate Trust Department, as the case may be, or any other officer of the entity who has been authorized by the Board of Directors or the Executive Committee of the Board of Directors of such entity to perform the specific act or duty or to sign the specific document in question.

"Bankruptcy Code" means the Federal Bankruptcy Code (11 U.S.C. § 101 et seq.), as amended from time to time.

"Basic Rent" means the rent payable for the Locomotives during the Basic Term pursuant to Section 3.1 of the Lease. Subject to adjustment in accordance with Section 3.4 of the Lease, each quarterly payment of Basic Rent in respect of each Locomotive subject to the Lease shall be in an amount equal to the product of (i) the percentage set forth in Schedule 2 attached to the Lease Supplement covering and related to such Locomotive applicable to the quarterly rental payment being made multiplied by (ii) the amount of the Purchase Price of such Locomotive designated in such Lease Supplement.

"Basic Rent Default" has the meaning specified in Section 12.12(a) of the Indenture.

"Basic Term" for each Locomotive means the period beginning on December 30, 1988 and ending on December 29, 2008.

"Bill of Sale" means each bill of sale executed and delivered by the Manufacturer pursuant to Sections 6(i) and 7(g) of the Participation Agreement substantially in the form of Exhibit G to the Participation Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday, and (ii) a day on which state or national banking institutions are authorized or obligated by law or executive order to remain closed in the States of New York, Connecticut, Delaware or Oregon or the District of Columbia.

"Casualty Occurrence" with respect to any Locomotive means any of the following events with respect to such Locomotive: (i) such Locomotive shall be or become lost or stolen for a period in excess of 30 days (or to the end of the remaining term of the Lease, if it first occurs), or shall be or become worn out, destroyed or irreparably damaged, or uneconomical to repair from any cause whatsoever during the Lease Term or until such Locomotive is returned pursuant to Section 12 or Section 15 of the Lease, (ii) such Locomotive, together with all other Locomotives manufactured by Manufacturer, shall have been returned permanently to Manufacturer pursuant to any patent indemnity provisions of any agreement between Manufacturer and Lessee, (iii) such Locomotive shall be permanently returned to the Manufacturer due to a material breach of Manufacturer's warranty (other than under the circumstances contemplated by the immediately preceding clause (ii)) contained in any agreement between Manufacturer and Lessee, (iv) title to such Locomotive shall be taken by any governmental entity by condemnation or otherwise, (v) use of such Locomotive shall be taken or requisitioned (a) by the United States government (I) for a stated period which shall equal or exceed the then remaining term of the Lease, or (II) for a period which has exceeded one year, or (b) by any other governmental entity (I) for a stated period which shall equal or exceed the then remaining term of the Lease or (II) for a period which has exceeded 180 days, or (vi) as a result of any rule, regulation, order or other action by the United States government or any Instrumentality, the use of such Locomotives in the normal course of interstate rail transportation shall have been prohibited for a continuous period of 90 days (or to the end of the remaining term of the Lease, if it first occurs); provided, that if any of the above events shall also constitute a Special Casualty Occurrence, any such event shall not be deemed to be a Casualty Occurrence.

"Casualty Payment Date" means the date on or before the Business Day next preceding the earlier of (i) the 45th day following the date of a Casualty Occurrence, or (ii) the fifth day following the receipt of insurance proceeds with respect to such Casualty Occurrence.

"Casualty Value" has the meaning specified in Section 6.4 of the Lease.

"Casualty Value Determination Date" during the Interim Term and the Basic Term, means the date, specified on Schedule 3 to the Lease Supplement applicable to a Locomotive affected by a Casualty Occurrence, next succeeding the date of such Casualty Occurrence (or if such date of the Casualty Occurrence is a date shown on such Schedule 3, such date). During any Renewal Term, "Casualty Value Determination Date" means the date of a Casualty Occurrence.

"Certificate of Acceptance" means a certification of acceptance executed and delivered by Lessee pursuant to Article 1 of the Purchase Agreement substantially in the form of Exhibit II to the Purchase Agreement.

"Certificate of Authentication" means a certificate of authentication executed and delivered by Indenture Trustee pursuant to Section 3.01 of the Indenture substantially in the form set forth in Appendix A to the Indenture.

"Certificate of Inspection" means a certificate of inspection executed and delivered by Lessee pursuant to Article 3 of the Purchase Agreement substantially in the form of Exhibit III to the Purchase Agreement.

"Certificate of Inspection and Acceptance" means a certificate of inspection and acceptance executed and delivered by Lessee pursuant to Section 2 of the Lease substantially in the form of Exhibit A to the Lease.

"Cessation of Substantial Financial Commitment" means the failure by the United States government to support substantially all of Lessee's operating and capital budget shortfall as set forth in Lessee's federal grant justification transmitted to the President and Congress pursuant to Section 548(b) of the Rail Passenger Service Act within 120 days following commencement of the fiscal year for which such federal grant justification was submitted by Lessee.

"Change in Tax Law" means any change, modification, or addition in or to the Code (or any federal tax statute), regulation, published administrative rulings or procedures or applicable judicial decisions, that is enacted, promulgated, proposed or decided on or after December 1, 1988.

"Change in Tax Rate" means a change in the highest marginal rate of tax levied by the United States government on the taxable income of corporations.

"Claim" has the meaning specified in Section 8(b) of the Participation Agreement.

"Claim of Instrumentality" means any claim by Lessee before any governmental agency or court to be a United States governmental agency, instrumentality, authority, entity or establishment.

"Code" means the Internal Revenue Code of 1986.

"Commercial Obligation" means (i) any and all obligations, whether or not monetary, of Lessee to Owner Participant, Lessor, Note Purchaser, the holders of the Notes or the Indenture Trustee pursuant to any Operative Document; (ii) principal of, interest on, and any penalties assessed relating to, any indebtedness of Lessee owed to one or more banks, banking institutions, credit associations, insurance companies or financial institutions or other financing parties (each a "Bank"), whether outstanding on the effective date of the Participation Agreement or any Delivery Date or thereafter created, incurred or assumed that is (a) for money borrowed or (b) evidenced by a note or other evidence of indebtedness given in connection with the acquisition of any properties or assets; (iii) all obligations (including obligations under capital leases) of Lessee of whatever kind or nature to one or more Banks, including, without limitation, those incurred in connection with any acquisition of real or personal property, tangible or intangible, by condemnation, purchase or otherwise; (iv) all indebtedness or obligations of others of the kinds described in clauses (ii) and (iii) above for the payment of which Lessee is responsible or liable as guarantor or otherwise; (v) obligations under contracts entered into by Lessee with suppliers or customers of Lessee or any railroad, whether or not in the ordinary course of business and (vi) amendments, renewals, extensions and refundings of any indebtedness or obligations described in clauses (i) through (v) above.

"Consent to Purchase Agreement Assignment" means each consent to purchase agreement assignment substantially in the form of Exhibit C to the Participation Agreement given by Manufacturer and GMAC for the purpose of consenting to the assignment by Lessee (as assignor) to Owner Trustee (as assignee) of certain rights of Lessee under the Purchase Agreement and to the collateral assignment under the Indenture of certain rights of Owner Trustee to Indenture Trustee (collectively, the "Consents to Purchase Agreement Assignment").

"Debt Amount" for each Locomotive means the principal amount of the Note delivered by Owner Trustee pursuant to the Participation Agreement on the Delivery Date for such Locomotive to finance a portion of the Purchase Price for such Locomotive.

"Debt Rate" means 10.32% per annum computed on the basis of a 360-day year of twelve 30-day months. The Debt Rate is subject to adjustment on the Reset Date pursuant to Section 2.02 of the Indenture.

"Default" means any event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default.

"Delivery Date" means a date on which one or more of the Locomotives are purchased by Owner Trustee in accordance with the Purchase Agreement and a Purchase Agreement Assignment and leased to Lessee pursuant to the Lease.

"Effective Rate" has the meaning specified in Section 2(b) of the Tax Indemnity Agreement.

"ERISA" means the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 301 et seq.), as amended from time to time.

"Event of Default" has the meaning specified in Section 11.1 of the Lease.

"Excepted Rights" has the meaning specified in the Granting Clauses of the Indenture.

"Fair Market Rental" has the meaning specified in Section 14.3 of the Lease.

"Fair Market Value" has the meaning specified in Section 10.2 or Section 14.3 of the Lease, as the case may be.

"Federal Reserve Discount Rate" means the published discount-rate charged on loans to depository institutions by the New York Federal Reserve Bank as approved by the Board of Governors of the Federal Reserve System or, if such rate is no longer published, any rate reasonably equivalent thereto.

"GMAC" means General Motors Acceptance Corporation, a New York corporation.

"Grant" and "Granted" have the meanings specified in the Granting Clauses of the Indenture.

"Handlaren" means Investment AB Handlaren, a Swedish corporation.

"ICC" means the United States Interstate Commerce Commission or any successor agency thereto.

"including", "including, without limitation", and terms or phrases of similar import, with respect to any matter or thing, mean including, without limitation, such matter or thing.

"Indemnified Parties" means Owner Participant, Owner Trustee, in its individual capacity and as Owner Trustee, Indenture Trustee, each other holder from time to time of any Note (including, in the case of each of the foregoing, as to any such corporation, any corporation which is a member of the same affiliated group, as defined in Section 1504 of the Code, as such corporation), the Trust Estate, the Trust Indenture Estate, and the successors, assigns, Affiliates, agents, officers, shareholders, directors, servants and employees of any thereof, each individually being an "Indemnified Party."

"Indenture" means that certain Trust Indenture and Security Agreement, dated as of December 1, 1988, between Owner Trustee and Indenture Trustee, in substantially the form of Exhibit F to the Participation Agreement, as originally executed or as modified, amended or supplemented in accordance with the applicable provisions thereof. Unless the context otherwise requires, "Indenture" shall include each Indenture Supplement.

"Indenture Default" means an event or condition which, after notice or lapse of time, or both, would become an Indenture Event of Default.

"Indenture Event of Default" has the meaning specified in Section 12.01 of the Indenture.

"Indenture Supplement" means any amendment or supplement to the Indenture adopted in accordance with Article XIII of the Indenture, including, without limitation, an indenture supplement substantially in the form of Appendix B to the Indenture.

"Indenture Trustee" means The Connecticut Bank and Trust Company, National Association, a national banking association, and its permitted successors and assigns.

"Initial Renewal Term" means the period beginning on December 30, 2008 and ending on December 29, 2012.

"Installment Payment Date" means each March 30, June 30, September 30 and December 30 during the period Notes are outstanding under the Indenture, commencing March 30, 1989.

"Institutional Investor" means any of the following Persons existing under the United States or any state thereof:

(i) any bank, savings institution, trust company or national banking association, acting for its own account or in a fiduciary capacity, (ii) any charitable foundation, (iii) any insurance company or fraternal benefit association, (iv) any pension, retirement or profit-sharing trust or fund for which any bank, trust company, national banking association or investment adviser under the Investment Advisers Act of 1940, as amended and now in effect, is acting as trustee or agent, (v) any investment company registered under the Investment Company Act of 1940, as amended and now in effect, (vi) any college or university, (vii) any governmental agency supervising the investment of public funds or (viii) any finance or leasing company.

"Instrumentality" means a United States governmental agency, instrumentality, authority, entity or establishment.

"Interim Rent" for each Locomotive means an amount equal to the product of (i) the Debt Amount for such Locomotive, (ii) the Debt Rate and (iii) the number of days (based on a 360-day year of twelve 30-day months) from, and including, the Delivery Date of such Locomotive, to and including the last day of the Interim Term, or the date of payment of any installment of Interim Rent due prior to the last day of the Interim Term pursuant to Section 3.1(i) of the Lease, as the case may be, all divided by 360.

"Interim Term" for each Locomotive means the period beginning on the Delivery Date of such Locomotive up to and including December 29, 1988.

"Investment" means the amount of money delivered by Owner Participant to Owner Trustee pursuant to Section 3 of the Participation Agreement to finance that portion of the Purchase Price for the Locomotives to be delivered on a Delivery Date not financed by Notes to be delivered by the Owner Trustee to the Indenture Trustee pursuant to Section 2 of the Participation Agreement (collectively, "Investments").

"Invoice" means an invoice delivered by Manufacturer to Owner Trustee on a Delivery Date specifying the serial numbers, road numbers and Purchase Prices of the Locomotives delivered on such Delivery Date.

"Hakon" means Hakon Finans AB, a Swedish corporation.

"Lease" means that certain Lease of Railroad Equipment, dated as of December 1, 1988, between Owner Trustee, as lessor, and Lessee, as lessee, in substantially the form of Exhibit E to the Participation Agreement, as originally executed or as modified, amended or supplemented in accordance with the applicable provisions thereof. Unless the context otherwise requires, "Lease" shall include each Lease Supplement.

"Lease Default", when used in the Indenture, means a Default.

"Lease Event of Default", when used in the Indenture, means an Event of Default.

"Lease Rent" has the meaning specified in Section 5.01 of the Indenture.

"Lease Supplement" means a supplement to the Lease substantially in the form of Exhibit B to the Lease, to be entered into between Lessor and Lessee for the purpose of leasing the Locomotives under and pursuant to the Lease (each a "Lease Supplement," collectively, the "Lease Supplements").

"Lease Term" for each Locomotive means the period commencing on the Delivery Date and continuing to and including the last day of the Basic Term, or if Lessee exercises the renewal option contained in Section 14.2 of the Lease, the last day of the Renewal Term, in each case unless earlier terminated pursuant to the terms of the Lease.

"Leased Property" has the meaning specified in the Granting Clauses of the Indenture.

"Lessee" means National Railroad Passenger Corporation, a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia, also known as AMTRAK.

"Lessee's Notice" has the meaning specified in Section 2(c) of the Participation Agreement.

"Lessor" means Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner Trustee except as expressly provided in the Operative Documents, and its permitted successors and assigns.

"Lessor's Liens" means any Lien which results from claims by or against Lessor, in its individual capacity or as trustee, unrelated to Lessor's ownership or mortgaging of the Locomotives pursuant to the Operative Documents or Lessor's sale and leasing of the Locomotives pursuant to the Swedish Financing Documents or the transactions contemplated thereby.

"Liability Insurance" has the meaning specified in Section 6.6 of the Lease.

"Lien" means any interest in property securing an obligation owed to, or a claim by, any person other than the owner of the property, whether such interest shall be based on the common law, statute, contract or conveyance, and including, but not limited to, the security interest lien arising from a mortgage, encumbrance, pledge, conditional sale or trust

receipt, or from a lease, consignment or bailment for security purposes. Without limitation of the foregoing, the term "Lien" shall include reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting property. For the purposes of the Lease, a person shall be deemed to be the owner of any property which it shall have acquired or shall hold subject to a conditional sale agreement or other arrangement pursuant to which title to the property shall have been retained by or vested in some other person for security purposes.

"Locomotive" means each of the seven (7) General Motors AEM-7 electric locomotives, as more specifically described in Exhibit C to the Lease, purchased or to be purchased by Lessee in accordance with the Purchase Agreement and the Purchase Agreement Assignments and leased or to be leased to Lessee pursuant to the Lease and one or more Lease Supplements, together with related appliances, parts, accessories, appurtenances, additions, improvements and other equipment or components of any nature, and replacements thereof as described in the Lease (collectively, the "Locomotives").

"Locomotive Inspection Act" means the Locomotive Inspection Act (45 U.S.C. § 22 et seq.), as amended from time to time.

"Majority in Interest of Noteholders" means, as of a particular date of determination, the holder or holders of at least 51% in aggregate principal amount of all Notes outstanding as of such date (excluding any Notes then held by Owner Trustee, Owner Participant or Lessee or any Affiliate of any thereof unless all Notes then outstanding are held by Owner Trustee, Owner Participant and Lessee and their Affiliates).

"Make Whole Premium" at any time with respect to any prepayment of the Notes pursuant to Section 6.02(b) of the Indenture means to the extent that the Treasury Rate at such time is lower than 10.32% if such prepayment is made prior to the Reset Date, or lower than the Reset Interest Rate if such prepayment is made on or after the Reset Date, the excess of (i) the present value of the principal and interest payments on and in respect of the Notes being prepaid, which payments would otherwise become due and payable (without giving effect to such prepayment, but taking into account the required application of such prepayment to the scheduled payments on the Notes), all determined by discounting such payments at a rate which is equal to the Treasury Rate in effect on the date of the Special Casualty Occurrence in connection with which the Treasury Rate is being determined, over (ii) the aggregate principal amount of the Notes plus accrued interest then to be prepaid. To the extent that the Treasury Rate at the time of such prepayment is equal to or higher than 10.32% if such prepayment is made prior

to the Reset Date, or the Reset Interest Rate if such prepayment is made on or after the Reset Date, the Make Whole Premium is zero.

"Manufacturer" means General Motors Corporation, a Delaware corporation, acting through its Electro-Motive Division.

"Maximum Aggregate Investment Commitment" means \$6,500,000, exclusive of Transaction Expenses.

"Net Earnings" means the amount of after tax income anticipated to be earned from the Lease by Owner Participant from the beginning of the Interim Term through and including any Casualty Value Determination Date or Special Casualty Value Determination Date computed in accordance with that part of Statement of Financial Accounting Standards No. 13 relating to accounting for leveraged leases, and any amendments or successors thereto.

"Net Economic Return" means Owner Participant's net after-tax yield using the multiple investment sinking fund method and total after-tax cash flow, computed on the basis of the assumptions, including, without limitation, the tax assumptions set forth in the Tax Indemnity Agreement, used by Owner Participant in originally evaluating the transactions contemplated by the Lease.

"New Note" has the meaning specified in Section 4.03 of the Indenture.

"Non-U.S. Person" means any individual who is not a citizen of the United States, or any partnership, corporation, joint venture, trust, unincorporated association or other entity that is not either a citizen of the United States or organized under the laws of the United States or any state thereof.

"Northeast Corridor" means the following intercity passenger railroad lines: Washington, D.C. to Richmond, Virginia; New Haven, Connecticut to Boston, Massachusetts; New Haven, Connecticut to Springfield, Massachusetts; Washington, D.C. to New Haven, Connecticut; and Philadelphia, Pennsylvania to Harrisburg, Pennsylvania.

"Note" means and "Notes" mean all of the notes of Owner Trustee, substantially in the form thereof specified in Appendix A to the Indenture, as authenticated and delivered pursuant to the Indenture.

"Note Payment" means the amount which Note Purchaser delivers to Indenture Trustee pursuant to the Indenture on the Delivery Date to finance a portion of the Purchase Price for

the Locomotives to be delivered on such Delivery Date, collectively "Note Payments."

"Note Purchaser" means The Mutual Life Insurance Company of New York, a New York insurance corporation, and its permitted successors and assigns.

"Note Purchaser's Percentage" means the Note Purchaser's percentage set forth in the Lessee's Notice provided by Lessee pursuant to Section 2(c) of the Participation Agreement, applicable to the Locomotive or Locomotives to be delivered on a Delivery Date.

"Note Register" has the meaning specified in Section 4.01 of the Indenture.

"Officer's Certificate" with respect to any corporation or other entity, means a certificate executed on behalf of such corporation or other entity by its Chief Executive Officer, President, Chief Financial Officer, one of its Vice Presidents or its Treasurer (including, with respect to Owner Trustee and Indenture Trustee, any Authorized Officer).

"Old Note" has the meaning specified in Section 4.03 of the Indenture.

"Operative Documents" means the Participation Agreement, the Trust Agreement, the Indenture, the Lease, the Tax Indemnity Agreement, the Notes, the Bills of Sale, the Purchase Agreement, the Purchase Agreement Assignments and the Consents to Purchase Agreement Assignment, collectively.

"outstanding", with respect to Notes, means, as of the date of determination, all Notes theretofore authenticated and delivered under the Indenture, except:

(i) Notes theretofore cancelled by Indenture Trustee or delivered to Indenture Trustee for cancellation;

(ii) Notes for whose payment or prepayment money in the necessary amount shall theretofore have been deposited with the Indenture Trustee in trust for the holders of such Notes; provided, however, that, if such Notes are to be prepaid, notice of such prepayment shall have been duly given pursuant to the Indenture or provision therefor satisfactory to Indenture Trustee shall have been made; and

(iii) Notes in exchange or replacement for which other Notes shall have been authenticated and delivered under the Indenture;

provided, however, that in determining whether the holders of the requisite aggregate unpaid principal amount of Notes

outstanding have made or given any request, demand, instruction, authorization, direction, notice, consent or waiver under the Indenture, Notes held or owned by Owner Trustee, Owner Participant or Lessee, or any Affiliate of any thereof, shall be disregarded and deemed not to be outstanding, except that, in determining whether Indenture Trustee shall be protected in relying upon any such request, demand, instruction, authorization, direction, notice, consent or waiver, only Notes which Indenture Trustee knows to be so held or owned shall be disregarded.

"Overdue Rate" means 1% over the Debt Rate, and on and after the Reset Date, 1% over the Reset Interest Rate.

"Owner Participant" means PacifiCorp Finance, Inc., a Delaware corporation, and its permitted successors and assigns.

"Owner Participant Documents" means the Trust Agreement, the Participation Agreement and the Tax Indemnity Agreement.

"Owner Participant's Percentage" means the Owner Participant's percentage set forth in the Lessee's Notice provided by Lessee pursuant to Section 2(c) of the Participation Agreement, applicable to the Locomotives to be delivered on a Delivery Date.

"Owner Trustee" means Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner Trustee under the Trust Agreement, except as expressly provided in the Operative Documents, and its permitted successors and assigns.

"Participant" or "Participants" means Note Purchaser and Owner Participant.

"Payment Instructions" with respect to the Note Purchaser means the payment instructions set forth in Schedule I to the Participation Agreement.

"Participation Agreement" means the Participation Agreement, dated as of December 1, 1988, among Lessee, Owner Participant, Note Purchaser, Owner Trustee and Indenture Trustee, as originally executed or as modified, amended or supplemented in accordance with the applicable provisions thereof.

"Permitted Investment" means (i) certificates of deposit and time and other interest bearing deposits in banks which are members of the Federal Reserve System having a net worth of not less than \$125,000,000, (ii) short-term debt securities issued by or entitled to the full faith and credit of the United States government, (iii) bank repurchase agreements with banks described in clause (i) of this definition which are fully

collateralized by securities described in clause (ii) of this definition or (iv) commercial paper which is rated "A-1" or better (or comparable ratings) by Standard & Poor's Corporation or "P-1" or better (or comparable ratings) by Moody's Investors Service, Inc. or the successors to such rating organizations, in each case referred to in the foregoing clauses (i) through (iv) due within 210 days of the date of purchase.

"Permitted Liens" means (i) liens for taxes, assessments or governmental charges or levies in each case not due and delinquent, (ii) inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of Lessee's business and in each case not delinquent, (iii) the leasehold interest in the Lease, (iv) the lien of the Indenture, and (v) any Liens permitted under the Swedish Financing Documents.

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

"Principal Corporate Trust Office", with respect to the Indenture Trustee, means the office of the Indenture Trustee located at the address set forth in the first paragraph of the Indenture, or such other office at which the corporate trust business of the Indenture Trustee shall be conducted, written notice of which shall have been given to the Owner Trustee, the Lessee and the holders of outstanding Notes.

"Property Insurance" has the meaning specified in Section 6.6 of the Lease.

"Purchase Agreement" means that certain Agreement for Purchase of Electric Locomotives, dated as of October 8, 1987, between Lessee, as purchaser, Manufacturer, as seller, and GMAC, as originally executed in the form attached to the Participation Agreement as Exhibit A, or as modified, amended or supplemented in accordance with the applicable provisions thereof and of the Indenture.

"Purchase Agreement Assignment" means each purchase agreement assignment substantially in the form of Exhibit B to the Participation Agreement made by Lessee (as assignor) to Owner Trustee (as assignee) for the purpose of assigning certain rights under the Purchase Agreement to Owner Trustee (collectively, the "Purchase Agreement Assignments").

"Purchase Documents" means the Purchase Agreement, and, with respect to each Locomotive, the Purchase Agreement Assignment, the Consent to Purchase Agreement Assignment, the Invoice, the Certificate of Inspection, the Certificate of Acceptance and the Bill of Sale related thereto.

"Purchase Option Agreement" as applicable, means, when executed and delivered, (i) that certain Purchase Option Agreement to be executed in December 1988 between Hakon and Owner Trustee or (ii) that certain Purchase Option Agreement to be executed in December 1988, between Handlaren and Owner Trustee, in each case as in effect on the date of original execution thereof or as modified, amended or supplemented in accordance with the applicable provisions thereof and with the applicable Swedish Subordination Agreement (collectively, the "Purchase Option Agreements").

"Purchase Price" for each Locomotive means the price paid to the Manufacturer for the purchase of such Locomotive as specified in Schedule 1 to the Lease Supplement delivered on the Delivery Date for such Locomotive, and for all Locomotives in aggregate, an amount not exceeding \$25,776,800.

"Rail Passenger Service Act" means the Rail Passenger Service Act (45 U.S.C. § 501 et seq.), as amended from time to time.

"Renewal Rent" means the rent payable during the Renewal Term for the Locomotives subject to the Lease at the end of the Basic Term or the Initial Renewal Term, as the case may be, as specified in Section 14.2 of the Lease.

"Renewal Term" means the period beginning on December 30, 2008 and ending on December 29, 2012; provided, however, that if Lessee exercises its rights under Section 14.2(ii) of the Lease, the period shall end on December 29, 2016.

"Rent" means Interim Rent, Basic Rent, Renewal Rent and Supplemental Rent, collectively.

"Rent Payment Date" means each March 30, June 30, September 30 and December 30.

"Reset Date" has the meaning specified in Section 2.02 of the Indenture.

"Reset Interest Rate" has the meaning specified in Section 2.02 of the Indenture.

"Responsible Officer" means any corporate officer or other responsible official of such entity who is designated as the recipient of a notice pursuant to the provisions of any Operative Document or who, in the normal performance of such official's operational responsibilities, would have knowledge of the matter at issue and the relevant provisions of any applicable Operative Document.

"Securities Act" means the Securities Act of 1933 (15 U.S.C. § 77a et seq.), as amended from time to time.

"Short-Term Lease Termination" means a lease agreement termination substantially in the form of Exhibit B to the Lease Agreement dated as of September 30, 1988, by and between Manufacturer, as lessor, and Lessee, as lessee, executed and delivered on a Delivery Date for the purpose of terminating such lease with respect to the Locomotives delivered on such Delivery Date.

"Special Casualty Occurrence" means (i) the exercise by Lessee of the right permitted under the circumstances described in Section 6.9 of the Lease or (ii) the making by Lessee of a Claim of Instrumentality under the circumstances described in Section 6.10(ii) of the Lease.

"Special Casualty Value" during the Interim Term and the Basic Term, for each Locomotive means (i) the product of (a) the Purchase Price and (b) the sum of the percentages set forth in Columns A and C (for a Special Casualty Occurrence described in Section 6.9 of the Lease) and Columns B and C (for a Special Casualty Occurrence involving a Claim of Instrumentality) of Schedule 4 to the Lease Supplement applicable to such Locomotive opposite the Special Casualty Value Determination Date and (ii) the Make Whole Premium. During any Renewal Term, the Special Casualty Value for each Locomotive shall be an amount equal to 46% of the Purchase Price for such Locomotive.

"Special Casualty Value Determination Date" during the Interim Term and the Basic Term, (i) with respect to Section 6.9 of the Lease, means the date specified on Schedule 4 to the Lease Supplement applicable to a Locomotive next succeeding the date of exercise of the right of eminent domain, and (ii) with respect to Section 6.10(ii) of the Lease, means the date specified on Schedule 4 to the Lease Supplement applicable to a Locomotive, next succeeding the date Lessor notifies Lessee of Lessor's exercise of its right to require Lessee to purchase the Locomotives pursuant to Section 6.10(ii) of the Lease (or if the date Lessor notifies Lessee of Lessor's exercise of such right is a date shown on such Schedule 4, such date); provided, that, with respect to Section 6.10(ii), if a Responsible Officer of Lessee or a member of Lessee's headquarter's legal staff shall have become aware of Lessee making a Claim of Instrumentality and Lessee shall have failed to notify Lessor prior to the occurrence of an Event of Default as a result thereof, the Special Casualty Value Determination Date shall be the date specified on Schedule 4 to the Lease Supplement applicable to a Locomotive opposite the largest value listed in Column B between and including the first date a Claim of Instrumentality was made by Lessee and the date which Lessee notifies Lessor that Lessee has made such Claim of Instrumentality.

"Subsequent Renewal Term" means the period beginning on December 30, 2012 and ending on December 29, 2016.

"Supplemental Rent" means any and all amounts, liabilities and obligations (other than Interim Rent, Basic Rent or Renewal Rent) which Lessee assumes or agrees to pay to any person under the Lease or under the Participation Agreement including, without limitation, Section 3.3 of the Lease and Section 8 of the Participation Agreement, or under any other Operative Document, including, without limitation, payments of Casualty Value and Special Casualty Value, and amounts measured by reference thereto, indemnity payments and payments pursuant to the Tax Indemnity Agreement.

"Swedish Financing Documents" means, when executed and delivered, the "Documents" as defined in Exhibit A to the respective Purchase Option Agreements, as applicable, in each case as in effect on the date of original execution thereof or as modified, amended or supplemented in accordance with the applicable provisions thereof and with the Swedish Subordination Agreements.

"Swedish Lease" means, when executed and delivered, the Lease Agreement as defined in Exhibit A to the respective Purchase Option Agreements, as applicable, in each case as in effect on the date of original execution thereof, or as modified, amended or supplemented in accordance with the applicable provisions thereof and with the Swedish Subordination Agreements (collectively, the "Swedish Leases").

"Swedish Lessor" as applicable, means Hakon or Handlaren (collectively, the "Swedish Lessors").

"Swedish Subordination Agreement" means, when executed and delivered, the Subordination and Denunciation Agreement as defined in Exhibit A to the respective Purchase Option Agreements, as applicable, in each case as in effect on the date of original execution thereof or as modified, amended or supplemented in accordance with the applicable provisions thereof (collectively, the "Swedish Subordination Agreements").

"Tax Assumptions" has the meaning specified in Section 2(b) of the Tax Indemnity Agreement.

"Taxes" has the meaning specified in Section 8(a) to the Participation Agreement.

"Tax Indemnity Agreement" means that certain Tax Indemnity Agreement, dated as of December 1, 1988, between Owner Participant and Lessee, as originally executed or as modified, amended or supplemented in accordance with the applicable provisions thereof.

"Transaction Expenses" has the meaning specified in Section 9 of the Participation Agreement.

"Treasury Rate" at any time with respect to any Notes being prepaid, means the then existing yield to maturity on the United States Treasury obligations with a constant maturity (as compiled by and published in the most recently published issue of the United States Federal Reserve Statistical Release designated H.15(519) or its successor publication) most nearly equal to (by rounding to the nearest month) the Weighted Average Life to Maturity of the Notes. If no maturity exactly corresponding to such Weighted Average Life to Maturity of the Notes shall appear therein, the weekly average yields for the two most closely corresponding published maturities shall be calculated pursuant to the foregoing sentence and the Treasury Rate shall be determined from such yields on a straight-line basis (rounding, in the case of relevant periods, to the nearest month).

"Trust Agreement" means that certain Trust Agreement, dated as of December 1, 1988, between Owner Participant and Wilmington Trust Company, in substantially the form of Exhibit D to the Participation Agreement, as originally executed or as modified, amended or supplemented in accordance with the applicable provisions thereof.

"Trust Estate" means all estate, right, title and interest of Owner Trustee in and to the Locomotives, the Lease, the Purchase Agreement and the Purchase Agreement Assignments and any other property contributed by Owner Participant, including, without limitation, all amounts of Rent, insurance proceeds and requisition, indemnity or other payments of any kind for or with respect to the Locomotives. Notwithstanding the foregoing, except for purposes of Section 8(a) of the Participation Agreement, "Trust Estate" shall not include any Excepted Rights.

"Trust Indenture Act" means the Trust Indenture Act of 1939 (15 U.S.C. § 77aaa et seq.), as amended from time to time.

"Trust Indenture Estate" has the meaning specified in the Granting Clauses of the Indenture.

"Unused Equity Commitment" has the meaning specified in Section 9(a)(iii) of the Participation Agreement.

"Weighted Average Life to Maturity" with respect to the Notes means, as of the time of determination thereof, the number of years obtained by dividing the then Remaining Dollar-Years of the Notes by the remaining scheduled principal payments on the Notes. The term "Remaining Dollar-Years" of the Notes means the product obtained by (i) multiplying (a) the amount of each then scheduled required principal payment

(including payment at final maturity), by (b) the number of years (calculated to the nearest one twelfth); which will elapse between the date of determination of the Weighted Average Life to Maturity of the Notes and the date such scheduled required payment is due, and (ii) totalling all the products obtained in (i).

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EXHIBIT A TO LEASE  
OF RAILROAD EQUIPMENT

Certificate of Inspection and Acceptance

To:           Wilmington Trust Company,  
              as Owner Trustee ("Owner Trustee")  
              Rodney Square North  
              Wilmington, Delaware 19890

I, the duly authorized inspector and representative for the Owner Trustee and NATIONAL RAILROAD PASSENGER CORPORATION ("Lessee") under the Lease of Railroad Equipment dated as of December 1, 1988, do hereby certify that I inspected the locomotives described on Schedule 1 attached hereto (each a "Locomotive," collectively the "Locomotives").

I do further certify that the Locomotives are in as good and new order and condition as when initially delivered from the Manufacturer, and conform to the specifications, requirements and standards applicable thereto, that no material warranty claims are pending with respect to the Locomotives, that the Locomotives have not been damaged by accident or otherwise and that, based upon my inspection, there is no apparent defect in any Locomotive with respect to design, manufacture, condition or in any other respect.

As the duly authorized inspector and representative for the Owner Trustee and the Lessee, I hereby certify that I have accepted delivery of the Locomotives on the date hereof.

I do further certify that each of the Locomotives has been marked by means of a fireproof metal nameplate four by six inches in size in a prominent position in each of the cabs of each Locomotive with large letters and contrasting colors as follows:

"OWNED BY WILMINGTON TRUST COMPANY, AS OWNER  
TRUSTEE, SUBJECT TO A SECURITY AGREEMENT FILED  
WITH THE INTERSTATE COMMERCE COMMISSION"

The execution of this Certificate will in no way relieve or decrease the responsibility of the Electro-Motive Division of General Motors Corporation, as manufacturer, for any warranties it has made with respect to the Locomotives.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Inspector and Authorized  
Representative of Owner  
Trustee and Lessee

Approved: \_\_\_\_\_  
Richard I. Klein  
Treasurer of Lessee

SCHEDULE 1 TO CERTIFICATE  
OF INSPECTION AND ACCEPTANCE

DESCRIPTION OF LOCOMOTIVES

EXHIBIT B TO LEASE  
OF RAILROAD EQUIPMENT

LEASE SUPPLEMENT NO. \_\_\_\_

THIS LEASE SUPPLEMENT NO. \_\_\_\_ is dated \_\_\_\_\_, 19\_\_ (this "Lease Supplement"), and is executed and delivered to WILMINGTON TRUST COMPANY, a Delaware banking corporation, not individually but solely as trustee under that certain Trust Agreement, dated as of December 1, 1988, between PacifiCorp Finance, Inc. and such trustee ("Lessor"), by NATIONAL RAILROAD PASSENGER CORPORATION, a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia ("Lessee"), pursuant to and in accordance with the Lease of Railroad Equipment dated as of December 1, 1988 between Lessor and Lessee (the "Lease"). Unless otherwise defined herein, capitalized terms in this Lease Supplement are used with the respective meanings specified in Annex A to the Lease.

1. The locomotives covered by this Lease Supplement consist of the items described in Schedule 1 attached hereto (the "Locomotives").

2. Lessee confirms that the Locomotives have been delivered to it and, as between Lessor and Lessee, are in as good working order and condition as when initially delivered, and have been inspected and accepted by Lessee as of the date first set forth above.

3. The Purchase Price of each of the Locomotives is set forth in Schedule 1 attached hereto and the aggregate Purchase Price for such Locomotives is \$\_\_\_\_\_.

4. The percentages of Basic Rent, Casualty Value and Special Casualty Value for the Locomotives are set forth in Schedules 2, 3 and 4 hereto, respectively.

5. Lessee hereby: (a) confirms that the Locomotives covered hereby are of the size, design, capacity and manufacture selected by it and meet the provisions of the applicable purchase agreement with the Manufacturer with respect thereto, (b) confirms that the Locomotives have been marked in accordance with all of the provisions of Section 5.1 of the Lease, (c) confirms that the Locomotives conform to the modifications, requirements and standards applicable thereto as provided in the Lease, and (d) irrevocably accepts such Locomotives "as-is, where-is" for all purposes of the Lease as of the date first set forth above.

6. By the execution and delivery of this Lease Supplement by Lessee, and the acceptance thereof by Lessor, Lessee and Lessor reaffirm all of the terms, provisions and conditions of the Lease.

7. This Lease Supplement may be executed in several counterparts (or upon separate signature pages bound together into one or more counterparts), such counterparts together constituting but one and the same instrument. To the extent, if any, that this Lease Supplement constitutes chattel paper or other collateral within the meaning of the Uniform Commercial Code (or other law respecting security interests) as in effect in any applicable jurisdiction, no security interest in this Lease Supplement may be created through the transfer or possession of any counterpart other than the original executed counterpart hereof which shall be identified as the counterpart containing the receipt therefor executed by The Connecticut Bank and Trust Company, National Association, as Indenture Trustee, on or immediately following the signature page hereof.

IN WITNESS WHEREOF, Lessee has caused this Lease Supplement to be duly executed by its duly authorized officer as of the date first set forth above.

NATIONAL RAILROAD PASSENGER  
CORPORATION

By \_\_\_\_\_  
Name:  
Title:

Accepted as of the date first  
set forth above:

WILMINGTON TRUST COMPANY, not in its  
individual capacity but solely as  
Owner Trustee, except as expressly  
provided in the Lease

By \_\_\_\_\_  
Name:  
Title:

[\*] TO THE EXTENT, IF ANY, THAT THIS LEASE SUPPLEMENT CONSTITUTES CHATTEL PAPER OR OTHER COLLATERAL WITHIN THE MEANING OF THE UNIFORM COMMERCIAL CODE (OR OTHER LAW RESPECTING SECURITY INTERESTS) AS IN EFFECT IN ANY APPLICABLE JURISDICTION, NO SECURITY INTEREST IN THIS LEASE SUPPLEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL EXECUTED COUNTERPART HEREOF WHICH SHALL BE IDENTIFIED AS THE COUNTERPART CONTAINING THE RECEIPT THEREFOR EXECUTED BY THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE IMMEDIATELY FOLLOWING THIS LEGEND. THIS IS THE ONLY COUNTERPART OF THE LEASE SUPPLEMENT THAT CONTAINS THIS LEGEND.

[\*]Receipt of this original counterpart of the foregoing Lease Supplement is hereby acknowledged this \_\_\_\_ day of \_\_\_\_\_, 1988.

THE CONNECTICUT BANK AND TRUST  
COMPANY, NATIONAL ASSOCIATION,  
as Indenture Trustee

By \_\_\_\_\_  
Name:  
Title:

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[\*]This legend and receipt appear only in the original counterpart of this Lease Supplement.

District )  
 ) ss.  
of Columbia )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that he is a \_\_\_\_\_ of NATIONAL RAILROAD PASSENGER CORPORATION and that the instrument was signed on behalf of such 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 such corporation.

\_\_\_\_\_  
Notary Public

My commission expires  
\_\_\_\_\_

District )  
 ) ss.  
of Columbia )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that he is a \_\_\_\_\_ of WILMINGTON TRUST COMPANY and that the instrument was signed on behalf of such 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 such corporation.

\_\_\_\_\_  
Notary Public

My commission expires  
\_\_\_\_\_

SCHEDULE 1 TO  
LEASE SUPPLEMENT NO. \_\_

DESCRIPTION OF LOCOMOTIVES

BASIC RENT

Rental factors are expressed as percentages of the Purchase Price. The Basic Rent due on a Rent Payment Date is equal to the product of the Rent Factor and the Purchase Price for the Locomotives.

<u>Rent</u> <u>Payment Date</u>	<u>Payment Number</u>	<u>Rent</u> <u>Factor (%)</u>
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CASUALTY VALUE

Casualty Value  
Determination Date

Casualty Value (as a percentage  
of the Purchase Price)

SPECIAL CASUALTY VALUE

<u>Special Casualty Value Determination Date</u>	<u>Column A (Section 6.9)</u>	<u>Column B (Section 6.10(ii))</u>	<u>Column C (Debt Amount)</u>
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