INTERSTATE COMMERCE COMMISSION

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DB EXPORT-LEASING GmbH
Taunusanlage 12
D-6000 Frankfurt am Main 1
Federal Republic of Germany

December 22, 1988

No. 8-357A063
DEC 22 1988
Date .....
Fee $ 13.00
ICC Washington, D. C.

Ms. Noreta R. McGee, Secretary
Interstate Commerce Commission
Twelfth Street and Constitution Avenue, N.W.
Washington, D.C. 20423

Dear Secretary:

I have enclosed for recording pursuant to Section 11303 of Title 49 of the U.S. Code an original and one counterpart of the Lease Agreement dated as of December 10, 1988 (the "DBX Lease"), between DB Export-Leasing GmbH and the Massachusetts Bay Transportation Authority.

All capitalized terms used herein without definition have the meanings assigned thereto in Schedule X to the DBX Lease.

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

DB Export-Leasing GmbH ("DBX")
Taunusanlage 12
D-6000 Frankfurt am Main 1
Federal Republic of Germany
Massachusetts Bay Transit Authority ("MBTA")
Ten Park Plaza
Boston, Massachusetts 02116

A description of the equipment covered by the Documents (the "DBX Lease Equipment") follows:

33 commuter rail coaches manufactured by Messerschmitt-Boelkow-Blohm GmbH (the "Manufacturer"), pursuant to the Agreement, dated August 7, 1985, as amended, between the Manufacturer and Massachusetts Bay Transportation Authority ("MBTA") and identified by MBTA vehicle identification numbers (and AAR designations) 517 through 532 and 1517 through 1533.

A fee of $13.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to Morgan, Lewis & Bockius, 101 Park Avenue, New York, N.Y. 10178, Attention: Carter Eltzroth.

A short summary of the DBX Lease to appear in the index follows:

> Primary Document. Lease Agreement dated as of December 10, 1988 between DBX as Lessor and MBTA as Lessee pursuant to which the Lessor leases to the Lessee the DBX Lease Equipment.

This filing is being made for precautionary purposes only and to make the transaction a matter of public record. This filing should not be construed as evidence of the intent of any of the parties to enter into any transaction other than that of a true lease.

A short summary of the transaction of which the DBX Lease is a part follows:

> The DBX Lease has been entered into in connection with a lease financing transaction pursuant to an Agreement to Purchase and Lease dated as of December 10, 1988 among the Massachusetts Bay Transportation Authority (the "Lessee"), DBX (the "Lessor"), NEMLC (the "Purchaser") and the Connecticut National Bank, not in its individual capacity (except as therein provided) but solely as ETA Trustee (the "ETA Trustee"), pursuant to which and pursuant to the Full Warranty Bill of Sale, the Lessee has transferred its interest in 33 commuter rail coaches (the "DBX Lease Equipment") to the Lessor. Pursuant to the Lease Agreement between Lessor and Lessee, Lessor has leased the DBX Lease Equipment back to Lessee.

Please note that a filing with respect to a security interest in favor of the Lessee created by the Lease Agreement has also been made today.

Please acknowledge receipt of this letter of transmittal and its enclosures by appropriately stamping the enclosed copy of this letter and by returning it to Morgan, Lewis

& Bockius, 101 Park Avenue, New York, N.Y. 10178, Attention: Carter Eltzroth in the addressed envelope enclosed for your convenience.

Very truly yours,

DB EXPORT-LEASING GmbH

By _____
Name: H. Franklin Bloomer, Jr.
Title: Attorney-in-Fact

Enclosures: Lease Agreement - Original and Notarized Copy
Transmittal Letter (Copy)
Check ($13.00)

INTERSTATE COMMERCE COMMISSION

DEC 22 1988 2:15 PM

RECORDATION NO. 6101 Filed 1425

[DBX Lease]

LEASE AGREEMENT

Dated as of December 10, 1988

Between

DB EXPORT-LEASING GmbH,
Lessor,

and

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY,
Lessee

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33 Messerschmitt-Boelkow-Blohm Commuter Rail Coaches

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LEASE AGREEMENT

This LEASE AGREEMENT is dated as of December 10, 1988, and is between DB Export-Leasing GmbH, a company organized under the laws of the Federal Republic of Germany (the "Lessor"), and Massachusetts Bay Transportation Authority, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts (the "Lessee").

WHEREAS, the Lessee has purchased, taken title to and accepted delivery of, the DBX Lease Equipment from the Manufacturer pursuant to the MBB Purchase Agreement; and

WHEREAS, the Lessee has leased to the ETA Trustee the Equipment pursuant to the Municipal Lease, and the ETA Trustee has leased back to the Lessee the Equipment pursuant to the Municipal Sublease; and

WHEREAS, the Lessee, as vendor, the Lessor, as purchaser, and the ETA Trustee have entered into the DBX Purchase Agreement providing, among other things, for the acquisition by the Lessor of the DBX Lease Equipment; and

WHEREAS, the Lessor desires to lease back to the Lessee, and the Lessee desires to lease, the DBX Lease Equipment on the terms and conditions herein contained;

NOW, THEREFORE, the Lessor and the Lessee agree as follows:

ARTICLE 1

DEFINITIONS; OTHER GENERAL TERMS

1.1. Certain Terms. The capitalized terms used herein which are defined in, or by reference in, Schedule X annexed hereto and by this reference incorporated herein, as such capitalized terms may be amended from time to time in accordance with Section 24.1, shall have the meanings specified therein whether or not such terms are defined herein.

1.2. Rules of Construction. Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, the singular number shall include the plural number and vice versa, and words importing persons shall include corporations, partnerships, associations and other entities, including public bodies, as well as natural persons. Whenever reference is made in this Lease to any agreement, instrument or document, the same

shall (unless the context otherwise requires) mean and refer to such agreement, instrument or document as amended and in effect at the relevant time of reference thereto.

ARTICLE 2

ACCEPTANCE UNDER PURCHASE AGREEMENT AND LEASE; LEASE TERM; DELIVERY AND ACCEPTANCE

2.1. Acceptance Under DBX Purchase Agreement and Lease. The Lessor and the Lessee acknowledge that the Lessor has accepted delivery from Lessee and paid for and simultaneously delivered and leased to Lessee under this Lease, and the Lessee has accepted and leased from the Lessor under this Lease, the DBX Lease Equipment.

2.2. Term of Lease. The term of this Lease shall commence on the Closing Date and shall expire on December 22, 2006, unless this Lease is terminated in accordance with Article 10 or 13 hereof.

2.3. Delivery and Acceptance. The Lessee hereby undertakes without delay to give to the Lessor written confirmation of delivery to and acceptance by the Lessee of the DBX Lease Equipment by executing and delivering to the Lessor an acceptance certificate substantially in the form of Exhibit A attached hereto. The execution of such certificate by the Lessee shall constitute conclusive evidence that the Lessee has accepted the DBX Lease Equipment for the purpose of this Lease without any limitation and that the DBX Lease Equipment complies with all requirements of this Lease.

2.4. Assembly of DBX Lease Equipment, Etc. The Lessor shall not be responsible for any assembly of, or installation of any parts on, the DBX Lease Equipment nor shall the Lessor bear any costs in connection therewith.

ARTICLE 3

DISCLAIMER OF WARRANTIES

THE LESSOR LEASES THE DBX LEASE EQUIPMENT HEREUNDER "AS IS, WHERE IS" AND THE LESSOR HAS NOT MADE NOR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OR SUITABILITY OF ANY ITEM OF DBX LEASE EQUIPMENT, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATION BASED ON STRICT

LIABILITY IN TORT, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE DBX LEASE EQUIPMENT OR ANY ITEM THEREOF OR ITS COMPLIANCE WITH APPLICABLE GOVERNMENTAL REQUIREMENTS OR REGULATIONS OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ITEM OF DBX LEASE EQUIPMENT, except that the Lessor warrants and represents that on the Closing Date each Item of DBX Lease Equipment shall be free of Lessor Liens attributable to it.

THE LESSEE HEREBY WAIVES TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW AS AGAINST THE LESSOR ALL RIGHTS IN RESPECT OF WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE WITH RESPECT TO ANY ITEM OF DBX LEASE EQUIPMENT LEASED UNDER THIS LEASE AND ALL CLAIMS AGAINST THE LESSOR ARISING OUT OF OR IN CONNECTION WITH THE CONDITION, DESIGN, OPERATION, SPECIFICATION OR PERFORMANCE OF ANY ITEM OF DBX LEASE EQUIPMENT INCLUDING, BUT NOT LIMITED TO, (1) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS THEREOF FOR A PARTICULAR PURPOSE OR USE OR SUITABILITY, (2) ANY IMPLIED WARRANTY THEREOF ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, (3) ANY OBLIGATION, DUTY, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT WHETHER OR NOT FOUNDED IN STRICT LIABILITY IN TORT AND (4) FOR ANY OTHER DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

None of the provisions of this Article 3 or any other provision of this Lease shall be deemed to amend, modify or otherwise affect the representations, warranties or other obligations (express or implied) of the Manufacturer or any subcontractor or supplier of the Manufacturer, with respect to any Item of DBX Lease Equipment or to release the Manufacturer or any such subcontractor or supplier from any such representation, warranty or obligation.

ARTICLE 4

INSIGNIA; POSSESSION OF DBX LEASE EQUIPMENT; ETC.

4.1. Insignia; Further Assurances.

(a) Promptly after the Closing Date, the Lessee shall fasten or cause to be fastened and maintained in a clearly visible location, on each Item of Additional Equipment, metal nameplates identifying the interest of the Lessor in and to such Additional Equipment as follows:

THIS COACH IS LEASED FROM
DB EXPORT-LEASING GmbH

and on each Item of DBX Lease Equipment which is also an Item of Equipment metal nameplates identifying the interests of the Lessor and the ETA Trustee in and to such DBX Lease Equipment as follows:

THIS COACH IS LEASED FROM
THE CONNECTICUT NATIONAL BANK,
AS EQUIPMENT TRUSTEE,
AND FROM
DB EXPORT-LEASING GmbH,
AND IS SUBJECT TO A SECURITY
INTEREST IN FAVOR OF
THE CONNECTICUT NATIONAL BANK,
AS EQUIPMENT TRUSTEE
FOR THE BENEFIT OF CERTAIN
OWNERS OF CERTIFICATES OF PARTICIPATION

The Lessee will not allow the name of any Person other than the Lessor to be placed on any Item of DBX Lease Equipment leased hereunder (other than the ETA Trustee with respect to each Item of DBX Lease Equipment which is also an Item of Equipment) as a designation that might be interpreted as a Lien thereon or as a claim of ownership; provided, that the Lessee may cause the DBX Lease Equipment leased hereunder to be lettered and otherwise marked in an appropriate manner for convenience of identification of the interest therein of the Lessee or of any sublessee permitted under Section 4.2.

The Lessee will not change the road number of any Item of DBX Lease Equipment unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished to the Lessor an opinion of counsel satisfactory to the Lessor to the effect that (1) such statement has been so filed, recorded and deposited, (2) such filing, recordation and deposit will protect the Lessor's interest in such Item and (3) no filing, recording, deposit or giving notice with or to any other United States Federal, state or local government or agency thereof is necessary to protect the interest of the Lessor in such Item.

(b) The Lessee will promptly and duly execute and deliver such further documents and assurances and take such further action as the Lessor may from time to time during the

term of this Lease reasonably request or as may be necessary or appropriate in order more effectively to carry out the intent and purpose of this Lease and to establish and protect the rights and remedies created or intended to be created in favor of the Lessor, including, without limitation, at no expense to the Lessor, the execution and delivery of supplements or amendments hereto, in recordable form, subjecting any replacement or substituted Item of DBX Lease Equipment to this Lease and the recording or filing of counterparts hereof, or of financing or continuation statements with respect hereto, in accordance with the laws of such jurisdictions as the Lessor may reasonably deem advisable.

(c) The Lessee agrees, for the benefit of the Lessor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Item of DBX Lease Equipment) with all laws of the jurisdictions in which its operations involving the Items of DBX Lease Equipment may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other Governmental Authority, to the extent that such laws and rules are applicable to the Lessee or any sublessee permitted under Section 4.2 and affect the title, operation or use of the Items of DBX Lease Equipment or are necessary to comply with health, safety or environmental standards of any Governmental Authority having relevant jurisdiction (which for purposes of the foregoing, shall include an industry-wide health, safety, or environmental standard recognized by a Governmental Authority), and in the event that such laws or rules require any alteration, replacement or addition of or to any part of any Item of DBX Lease Equipment, the Lessee will conform therewith at its own expense; provided, that the Lessee may at no expense to the Lessor, in good faith, contest the validity or application of any such law or rule in any reasonable manner if in the reasonable opinion of the Lessor, such contest will not adversely affect the property or rights of the Lessor under this DBX Lease.

4.2. Possession; Sublease. The Lessee may sublease all or any portion of the DBX Lease Equipment and thereby transfer or relinquish possession of any Item of DBX Lease Equipment, provided, that (i) no DBX Lease Default or DBX Lease Event of Default shall have occurred and be continuing, (ii) the sublease and any transfer of the DBX Lease Equipment pursuant thereto shall not adversely affect the interests of DBX or the Lien of the Accounts Receivable Purchase Agreement, and (iii) the sublease and any transfer pursuant thereto of the DBX Lease Equipment do not in the reasonable opinion of the Lessor impair the Contract for Financial Assistance or the Contract Assistance Provisions. The Lessee may also, without the prior written

consent of the Lessor, transfer possession of any Item of DBX Lease Equipment for delivery thereof to the manufacturer thereof for testing or other similar purposes or to any organization for service, repair, maintenance or overhaul work on such Item of DBX Lease Equipment, or any Part thereof, or for alterations or modification in or additions to such Item of DBX Lease Equipment to the extent required or permitted by the terms of Article 6. The right hereunder to Sublease or transfer any Item of DBX Lease Equipment is subject, in addition to the other conditions herein set forth to the following: (1) the rights of any transferee who receives possession by reason of a transfer permitted by this Section 4.2 shall be subject and subordinate to, and any sublease permitted by this Section 4.2 shall be made expressly subject and subordinate to, all the terms of this Lease and the Accounts Receivable Purchase Agreement including surrender of possession of each Item of DBX Lease Equipment upon a termination of this Lease and the right to repossession pursuant to Article 13 and the avoidance of such sublease upon such repossession, (2) the Lessee shall remain primarily liable hereunder for the performance of and compliance with all of the terms and provisions of this Lease to the same extent as if such sublease or transfer had not occurred and (3) without limiting the effect of the preceding clause (2), any such sublease shall include appropriate provisions (whether by requiring such obligations to be performed by the sublessee, the Lessee, or both) for the operation, location, maintenance, insurance and return of any Item of DBX Lease Equipment subleased thereby in accordance with the terms hereof.

4.3. Reports by the Lessor. The Lessee will prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any U.S. Federal, state or other U.S. Governmental Authority by reason of the Lessor's interest in the Items of DBX Lease Equipment or the leasing thereof to the Lessee.

4.4. Subordination to Municipal Sublease, etc. In respect of the Equipment, this Lease is subject and subordinate to the Municipal Lease and the Municipal Sublease, provided that no termination of the Municipal Lease or the Municipal Sublease shall terminate the obligations of the Lessee under this Lease or the rights of the Lessor under the DBX Purchase Agreement.

ARTICLE 5

MAINTENANCE AND OPERATION
OF DBX LEASE EQUIPMENT; REPLACEMENT OF PARTS

5.1. Maintenance. During the DBX Lease Term and the storage period referred to in Section 15.4, the Lessee, at no expense to the Lessor, shall maintain, inspect, service, repair, overhaul and test, or cause the same to be done to, each Item of DBX Lease Equipment so as to keep such Item in good operating condition, ordinary wear and tear from the careful and proper use thereof excepted, and in conformity with the operating, running, maintenance and repair manuals, instructions and service bulletins furnished by the Manufacturer or by any subcontractor or supplier of the Manufacturer and in accordance with the Lessee's standard practices for similar equipment (including, without limitation, the Lessee's maintenance program for the DBX Lease Equipment, as from time to time in effect). The Lessee shall maintain all records, logs and other materials required by all Governmental Authorities to be maintained in respect of the DBX Lease Equipment and shall promptly furnish to the Lessor upon the Lessor's request such information as may be required to enable the Lessor to file any reports required to be filed with any Governmental Authority as a result of the Lessor's interest in the DBX Lease Equipment.

5.2. Operations.

(a) The Lessee shall not permit any Item of DBX Lease Equipment to be maintained, serviced, repaired, overhauled, tested, used or operated in violation of any law or any rule, regulation or order of any Governmental Authority having jurisdiction, or in violation of any license or regulation relating to any Item of DBX Lease Equipment issued by any such Governmental Authority; provided, that the Lessee may in good faith (after having delivered to the Lessor an Officer's Certificate of Lessee stating the facts with respect thereto) contest the validity thereof in any reasonable manner which does not adversely affect the Lessor and which is consistent with and does not impair the continuance in full force and effect of any insurance required to be maintained pursuant to Article 9. In the event that any such law, rule, regulation or order requires alteration of any Item of DBX Lease Equipment, the Lessee will conform thereto or obtain conformance therewith at no expense to the Lessor and will maintain such Item in proper operating condition under such law, rule, regulation or order; provided, that the Lessee may in good faith (after having delivered to the Lessor an Officer's Certificate of the Lessee stating the facts with respect thereto) contest the validity thereof in any reasonable manner which does not adversely affect the Lessor and

which is consistent with any insurance required to be maintained pursuant to Article 9.

The Lessee agrees that (i) it will not operate or locate any Item of DBX Lease Equipment, or suffer any Item of DBX Lease Equipment to be operated or located, in any area or on any route or in any manner excluded from coverage by any insurance required by the terms of Article 9 and (ii) it will not operate the DBX Lease Equipment if any DBX Lease Event of Default under Article 12(d) shall have occurred and be continuing. The Lessee will notify the Lessor in the event that it or any sublessee permitted by Section 4.2 operates or locates any Item of DBX Lease Equipment outside of the Commonwealth within 10 Business Days thereof.

(b) The Lessor agrees to take such reasonable actions as may be appropriate to comply at the Lessee's request and at no expense to the Lessor with all laws, rules and regulations and orders applicable to the Lessor and necessary to maintain the operation of the DBX Lease Equipment to the extent that such actions cannot be taken by the Lessee on behalf of the Lessor.

5.3. Replacement of Parts. The Lessee, at no expense to the Lessor, will promptly replace all DBX Lease Parts which may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use for any reason whatsoever. In addition, the Lessee may, at no expense to the Lessor, remove in the ordinary course of maintenance, service, repair, overhaul or testing, any DBX Lease Parts, whether or not worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use, provided that the Lessee will at no expense to the Lessor replace such DBX Lease Parts as promptly as possible. All replacement DBX Lease Parts immediately prior to installation on the DBX Lease Equipment shall be free and clear of all Liens (except for Permitted Liens) and shall be in as good operating condition as, and shall have a value and utility at least equal to, the DBX Lease Parts replaced, assuming such replaced DBX Lease Parts were in the condition and repair required to be maintained by the terms hereof; provided, that the Lessee shall have the right to install temporary replacement DBX Lease Parts pending completion of permanent repairs or installation of permanent replacement DBX Lease Parts, in which event the Lessee shall install permanent replacement DBX Lease Parts to meet such requirements as soon as reasonably possible and in any event prior to the termination of the DBX Lease Term. Subject to Article 6, all DBX Lease Parts at any time removed from any Item of DBX Lease Equipment shall remain the property of the Lessor and subject to this Lease, no

matter where located, until such time as such DBX Lease Parts shall be replaced by DBX Lease Parts which have been incorporated or installed in or attached to the Item of DBX Lease Equipment from which such replaced DBX Lease Parts were removed and which meet the requirements for replacement DBX Lease Parts specified above. Immediately upon any replacement DBX Lease Part becoming incorporated or installed in or attached to such Item as above provided, without further act, (a) title to such replacement DBX Lease Part shall thereupon vest in the Lessor, (b) such replacement DBX Lease Part shall become subject to this Lease and be deemed part of such Item for all purposes hereof to the same extent as the DBX Lease Part originally incorporated or installed in or attached to such Item and (c) title to the replaced DBX Lease Part shall thereupon vest in the Lessee, free and clear of all rights of the Lessor, and shall no longer be deemed a "DBX Lease Part" hereunder.

ARTICLE 6

ALTERATIONS, MODIFICATIONS AND ADDITIONS

The Lessee, at no expense to the Lessor, will make such alterations and modifications in and additions to the DBX Lease Equipment as may be required from time to time (regardless upon whom such requirements are by their terms nominally imposed) to meet all requirements of Applicable Law; provided, that the Lessee may in good faith (after having delivered to the Lessor an Officer's Certificate of Lessee stating the facts with respect thereto) contest the validity of such requirements in any reasonable manner which does not adversely affect the Lessor and which is consistent with and does not impair the continuance in full force and effect of any insurance required to be maintained pursuant to Article 9. In addition, the Lessee, at no expense to the Lessor, may from time to time make such alterations and modifications in and additions to any Item of DBX Lease Equipment as the Lessee may deem desirable in the proper conduct of its business, including removal of DBX Lease Parts (herein called "Obsolete Parts") which the Lessee deems obsolete or no longer appropriate or suitable for use in the DBX Lease Equipment; provided that no such alteration, modification, removal or addition changes the basic use or function of the DBX Lease Equipment or diminishes the value, utility, remaining useful life, residual value or condition of such Item below the value, utility, remaining useful life, residual value and condition thereof immediately prior to such alteration, modification, removal or addition if such Item were then in the condition required to be maintained by the terms of this Lease. Except as otherwise set forth in this Article 6, title to all appliances, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature incorporated or installed in

or attached to or added to such Item as the result of such alteration, modification or addition (the "Additions") shall, without further act, vest in the Lessee if the Additions can be readily removed from such Item without diminishing or impairing the value, utility, remaining useful life, residual value or condition which such Item would have had at such time had the alteration, modification, or addition not occurred. Title to (i) all Additions which cannot be so removed, (ii) replacement DBX Lease Parts referred to in Section 5.3, (iii) any and all DBX Lease Parts installed on and additions and replacements made to any Item of DBX Lease Equipment which are required for the operation or use of such Item by the Interchange Rules of the Association of American Railroads (if applicable) or by the applicable regulations of the Department of Transportation, the Interstate Commerce Commission or any other Governmental Authority, and (iv) Additions intended to enhance the performance or operation of any Item of DBX Lease Equipment shall, without further act, vest in the Lessor and become subject to this Lease, provided, that so long as no DBX Lease Default or DBX Lease Event of Default shall have occurred and be continuing, the Lessee may, at any time during the DBX Lease Term, remove any Addition from such Item, provided that (a) such Addition is in addition to, and not in replacement of or substitution for, any such Item or DBX Lease Part, (b) such Addition is not required to be incorporated or installed in or attached or added to such Item pursuant to the terms of Section 5.1 or Section 5.3 or the first sentence of this Article 6, and (c) such Addition can be readily removed from such Item without diminishing or impairing the value, utility, remaining useful life, residual value or condition which such Item would have had at such time had such alteration, modification, or addition not occurred. Upon the removal by the Lessee of any Addition as above provided, title thereto shall, without further act, vest in the Lessee and such Addition shall no longer be deemed a "DBX Lease Part" hereunder. Any Addition not removed by the Lessee as above provided prior to the return of such Item to the Lessor hereunder shall remain the property of the Lessor.

The Lessor shall not bear any liability or cost for any alteration, modification or addition to any Item of DBX Lease Equipment.

ARTICLE 7

LIENS

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to any Item of DBX Lease Equipment or any DBX Lease Part, title thereto or any interest therein or in this Lease or the Rent or

any other payments provided for hereunder except Permitted Liens. The Lessee will promptly, at no expense to the Lessor, take such action as may be necessary duly to discharge any Lien not excepted above if the same shall arise at any time.

The Lessor agrees that it will not (except as contemplated by this Lease or Section 12 of the DBX Purchase Agreement) sell, transfer or otherwise dispose of any Item of DBX Lease Equipment or interest therein; provided, however, that the Lessor may enter into an agreement, subject to the Lessee's rights under Article 16, to sell or lease any Item of DBX Lease Equipment, such sale to take place or lease to commence after the end of the DBX Lease Term with respect to such Item.

ARTICLE 8

RENT; LESSEE COVENANTS

8.1. Basic Rent. The Lessee shall pay Basic Rent in arrears on each Basic Rent Payment Date during the DBX Lease Term. Each payment of Basic Rent shall be in an amount equal to the applicable percentage of the Lessor's Cost as set forth in Schedule 1 for those Items of DBX Lease Equipment that are subject to this Lease on such Basic Rent Payment Date for such Basic Rent Payment Date.

8.2. Payment to be Free of Withholding Taxes. The Lessee shall pay all Rent hereunder to the extent permitted by law, free and clear of, and without deduction or withholding for or on account of, any Taxes other than Excluded German Taxes. If any Taxes other than Excluded German Taxes are required by law to be deducted or withheld from any payment of Rent, the Lessee shall increase the amount paid so that the Lessor receives when due, after such deduction or withholding, the full amount of such Rent payable hereunder.

8.3. Supplemental Rent; Interest on Overdue Rent. In addition to its obligation to pay Basic Rent hereunder, the Lessee shall pay to the Lessor and/or to whoever shall be entitled thereto any and all Supplemental Rent as and when the same shall become due and owing, and, in the event of any failure on the part of the Lessee to pay any Supplemental Rent when the same shall become due and owing, the 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 Basic Rent. The Lessee also agrees to pay to the Lessor, upon demand, as Supplemental Rent, to the extent permitted by Applicable Law, interest at the Overdue Interest Rate on (i) any part of any installment of Basic Rent 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. The expiration or other termination of the Lessee's obligation to pay Basic Rent hereunder shall not limit or modify the obligations of the Lessee with respect to Supplemental Rent. All payments of Supplemental Rent that are required by any provision of the Operative Documents to be paid on an After-Tax Basis shall have been calculated and shall be paid on an After-Tax Basis.

8.4. Place of Payment of Rent. All Rent, except payments required by Section 8.2 or 8.3 of the DBX Purchase Agreement and as contemplated in the Accounts Receivable Purchase Agreement, payable shall be paid by the Lessee to the Lessor to the account of Lessor specified in Schedule 2 to the DBX Purchase Agreement. Such payments shall discharge the obligations of the Lessee to the Lessor hereunder to the extent of such payments. Each such payment to the Lessor shall be accompanied by notice by the Lessee as to the provisions of this Lease pursuant to which such payment is being made. Each Rent payment shall be made by the Lessee in immediately available funds prior to 11:00 a.m. (New York time) on the day when such payment is due.

8.5. No Setoff, Counterclaim, Etc. The Lessee's agreement to pay all Rent shall be absolute and unconditional under any and all circumstances and shall not be affected by any circumstances of any character, including, without limitation, (i) any change, waiver, extension, indulgence or other action or omission in respect of any obligation or liability of the Lessor hereunder unless effected in compliance with the terms hereof, (ii) any setoff, counterclaim, recoupment, defense or other right which the Lessee may have against the Lessor, the Manufacturer or any other Person for any reason whatsoever, (iii) any defect in the title, condition, design, operation or fitness for use or particular purpose of the DBX Lease Equipment or any Item thereof, (iv) any loss or destruction of, or damage to, the DBX Lease Equipment or any Item thereof or interruption or cessation in the use or possession thereof by the Lessee for any reason whatsoever and of whatever duration, (v) any requisition, restriction, prevention or curtailment of or interference with any use of the DBX Lease Equipment, any Item thereof or any DBX Lease Part thereof, (vi) any insolvency, bankruptcy, reorganization or similar proceeding by or against any Person, (vii) any failure to obtain any required governmental consent for a transfer of rights or title to the Lessee or any other Person pursuant to Article 10 or Article 16 or otherwise, (viii) the invalidity or unenforceability of this Lease or any other infirmity herein or any lack of power or authority of the Lessor or the Lessee to enter into this Lease, (ix) any deprivation of the Lessee (by the Lessor or any other Person) of the peaceful and quiet occupation and enjoyment of any or all of the DBX Lease

Equipment or any Item thereof or DBX Lease Part thereof, (x) any indemnity payment made by the Lessee, (xi) any breach or alleged breach by the Lessor of any representation, warranty or covenant made in connection with the transactions contemplated hereby or by any other Operative Document, (xii) the occurrence of an Event of Nonappropriation or (xiii) any other circumstances or happening whatsoever, whether or not similar to any of the foregoing. Each Rent payment (and each payment pursuant to the immediately succeeding sentence of this Section 8.5) made by the Lessee shall be final, and the Lessee will not seek to have any right to recover all or any part of such payment for any reason whatsoever. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise except as expressly provided herein, the Lessee shall nonetheless pay to the Lessor an amount equal to each payment of Basic Rent hereunder at the time and in the manner that such payment would have become due and payable hereunder if this Lease had not been terminated in whole or in part until all payments of Basic Rent required by the terms of this Lease have been made. Nothing contained in this Section 8.5 shall be construed to be a waiver, modification, alteration or release of any claim which the Lessee may have at any time for damages or equitable relief against the Lessor, the Manufacturer or any other Person. The Lessee waives any right under section 542 of the German Civil Code as in effect on the date hereof.

8.6. Covenants Regarding Contract Assistance. The Lessee shall, at all times until the DBX Lease Equipment shall have been returned or purchased, all other obligations of the Lessee under this Lease and all other Operative Documents satisfied, fully and promptly exercise all rights and pursue all claims and remedies which are available to the Lessee against the Commonwealth with respect to the payment by the Commonwealth of, or the reimbursement of the Lessee by the Commonwealth with respect to, Rent, including, without limitation, rights, remedies or claims from time to time possessed by the Lessee under the Contract for Financial Assistance and/or under Sections 12, 13 or 28 of the Act as now in force or as hereafter amended (such specific statutory provisions or other statutory provisions from time to time providing rights, claims or remedies in favor of the Lessee as against the Commonwealth with respect to Rent which are substantially equivalent thereto, collectively referred to herein as the "Contract Assistance Provisions").

Without limitation to the foregoing, the Lessee agrees with the Lessor as follows:

(a) The Lessee shall in a timely fashion take all lawful actions not in violation of its statutory obligations

to cause an Appropriation to be made for each of its Fiscal Periods during the DBX Lease Term;

(b) The Lessee shall in a timely fashion in each Fiscal Period submit to the Advisory Board an itemized budget which includes in the line item thereof in which rental payments are shown an amount sufficient to pay one hundred percent of its estimated current expenses shown in such line item for such Fiscal Period including one hundred percent of the Basic Rent to become due in such Fiscal Period, provided; however that the Lessee may show separately in such line item a reduction for any amount to be received pursuant to the Contract for Financial Assistance (DBX Lease) and any other financial assistance arrangements with the Commonwealth or others;

(c) Promptly after becoming aware that the Rent payable hereunder in any Fiscal Period is or shall be greater than the Rent previously budgeted for such Fiscal Period, the Lessee shall take all lawful actions to include or cause to be included a supplemental budget for such Fiscal Period covering the amount by which such aggregate actual amount of Rent exceeds such previously budgeted aggregate amount; and

(d) The Lessee will promptly submit to the Treasurer of the Commonwealth all reports, requests, certificates or other instruments required to obtain payment from the Commonwealth under the Contract Assistance Provisions and under the Contract for Financial Assistance.

If prior to any Basic Rent Payment Date the Lessee has Actual Knowledge that it will be without funds sufficient to pay in full the Rent payment due on such Basic Rent Payment Date, the Lessee shall immediately execute and deliver to the Treasurer of the Commonwealth a certification under Sections 12 or 13 of the Act calling for the payment by the Commonwealth to the Lessee of the net cost of service consisting of that portion of the Rent payment for which the Lessee lacks sufficient funds. If the Commonwealth does not promptly pay the amount so certified, the Lessee shall promptly and diligently proceed against the Commonwealth through the use of all appropriate judicial remedies to obtain payment of the amount so certified.

8.7. Additional Covenants.

(a) The Lessee will, promptly after having Actual Knowledge thereof, notify the Lessor of any litigation or administrative or arbitration proceedings affecting the DBX Lease Equipment or affecting the Lessee or any of its other assets, which, if adversely decided would, either individually or in the aggregate, have a material and adverse effect on the ability of

the Lessee to perform its obligations under any Operative Document.

(b) The Lessee will use the DBX Lease Equipment in a sound and safe manner using due care at all times to maintain and operate the DBX Lease Equipment in accordance with applicable safety standards.

(c) The Lessee will use the DBX Lease Equipment solely within the borders of the continental United States.

8.8. Business Days. If any Basic Rent Payment Date or any other date on which any payment is required to be made under this Lease shall not be a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on such day, and no interest or Supplemental Rent shall accrue by reason of such deferral of payment.

ARTICLE 9

INSURANCE

9.1. Public Liability and Property Damage Insurance. The Lessee, at no expense to the Lessor, will maintain or cause to be maintained at all times during the DBX Lease Term and the storage period referred to in Section 15.4 public liability insurance including passenger legal liability, personal injury liability, contractual liability and property damage coverage. Such insurance shall be in such amounts and with such insurance companies as is consistent with prudent industry practice and acceptable to the Lessor, and, in any event, subject to commercial availability; provided, that such insurance companies must have a Best rating of at least "B+" or, if not subject to Best rating, must be of financial strength comparable to that required for a Best "B+" rating; and provided, further, that the Lessor confirms that the insurance program outlined in a letter of Fred S. James Co. Inc. to the Lessee dated in December 1988 is in amounts and with such insurance companies as are acceptable to the Lessor. Such amounts of insurance shall not be less than such insurance coverage carried by and the related deductibles or retentions shall not be greater than deductibles or retentions of, commuter rail systems of comparable size to the Lessee's. All such policies of insurance and all policies taken out in substitution or replacement of the required policies shall (i) name the Lessor as additional insured, as its interest may appear, (ii) provide that no cancellation (including for nonpayment of premium) or material change of coverage be effective until at least 30 days after notice thereof has been mailed to the Lessor and any other named insureds and (iii) provide that no breach of warranty on the part of the Lessee or

other action of the Lessee shall impair the rights of the Lessor under such policies. If within the last five years of the DBX Lease Term, insurance is obtained on a claims-made basis, the Lessee shall continue such coverage in force for three years following the expiration of the DBX Lease Term with the Lessor remaining as additional insured.

9.2. Insurance Against Loss or Damage to DBX Lease Equipment. The Lessee, without expense to the Lessor or other additional insureds, will maintain or cause to be maintained at all times during the DBX Lease Term and the storage period referred to in Section 15.4 all-risk insurance covering loss or damage to the DBX Lease Equipment and DBX Lease Parts which is of such type, in such amounts (but in any event not less than $75 million) and with such deductibles or retentions, so long as the Lessee's long-term unsecured tax-exempt debt is rated Investment Grade, and is not less than such insurance coverage carried by commuter rail systems of comparable size to the Lessee's, and with such insurance companies as usually carried by commuter rail systems of comparable size to the Lessee's and acceptable to the Lessor, and, in any event, subject to commercial availability; provided, that such insurance companies must have a Best rating of at least "B+" or, if not subject to Best rating, must be of financial strength comparable to that required for a Best "B+" rating and, provided further, that the Lessor confirms that the insurance program outlined in a letter of Fred S. James Co., Inc. to the Lessee dated in December 1988 is in amounts and with such insurance companies as is acceptable to the Lessor. All policies carried in accordance with this Section 9.2 during the term of this Lease shall (a) name the Lessor as loss payee, as its interest may appear, (b) provide that no cancellation (including for nonpayment of premium) or material change of coverage be effective until at least 30 days after notice thereof has been mailed to the Lessor and any other loss payees and (c) provide that no breach of warranty by the Lessee or other action by the Lessee shall impair the rights of the Lessor.

9.3. Application of Insurance Proceeds for Event of Loss. As between the Lessor and the Lessee it is agreed that all insurance payments received as the result of the occurrence of an Event of Loss with respect to an Item of DBX Lease Equipment will be applied as follows (but subject to Section 9.5):

(a) unless such Items are replaced pursuant to Section 10.1(b), so much of such payments as shall not exceed the amounts due under Section 10.1(a) shall be applied in reduction of the Lessee's obligation to pay such amounts, if not already paid by the Lessee, or, if already paid by the Lessee, shall be applied to reimburse the Lessee for its payments of such amounts, and the balance, if any, of such

payments remaining thereafter will be paid to the Lessee; and

(b) if such Items are replaced pursuant to Section 10.1(b), such payments shall be paid over to or retained by the Lessee, provided that the Lessee shall have fully performed or, concurrently therewith, will fully perform the terms of Section 10.1(b).

9.4. Application of Insurance Proceeds for Other Than Event of Loss. As between the Lessor and the Lessee, the insurance proceeds of any property damage loss to any DBX Lease Equipment not constituting an Event of Loss will be applied in payment (or to reimburse the Lessee) for repairs or for replacement property in accordance with the terms of Article 5, and (subject to Section 9.5) any balance remaining after compliance with such Article with respect to such loss shall be paid to, or retained by, the Lessee.

9.5. Application During Existence of DBX Lease Event of Default. Notwithstanding anything contained in this Lease to the contrary, any amount referred to in Sections 9.3(a), 9.3(b) or 9.4 which is payable to the Lessee shall not be paid to the Lessee or, if it has been previously paid to the Lessee, shall be promptly paid by the Lessee to the Lessor, if at the time of such payment a DBX Lease Event of Default or a DBX Lease Default shall have occurred and be continuing. In such event, all such amounts shall be paid to and held by the Lessor as security for the obligations of the Lessee to make payments hereunder or under any Operative Document or, at the Lessor's option, applied by the Lessor toward payment of any of such obligations of the Lessee at the time due hereunder or under any Operative Document as the Lessor may elect. At such time as there shall not be continuing any DBX Lease Default or DBX Lease Event of Default, all such amounts at the time held by the Lessor in excess of the amount, if any, which the Lessor shall have elected to apply as above provided shall be paid to the Lessee.

9.6. Certificates, Etc. The Lessee will during the DBX Lease Term and the storage period referred to in Section 15.4 furnish to the Lessor evidence satisfactory to the Lessor (including certified copies of policies if requested) of renewal or replacement of the insurance policies required pursuant to this Article 9 prior to the cancellation, lapse or expiration of such insurance policies and, on the renewal dates of the insurance policies carried by the Lessee pursuant to this Article 9, a certificate of the Lessee's insurance broker describing in reasonable detail the insurance carried by the Lessee to comply with this Article 9, the primary and excess insurance carriers and their respective percentage interests, and an Officer's Certificate of the Lessee stating that the insurance then carried

and maintained on the DBX Lease Equipment complies with the terms hereof.

9.7. Additional Insurance. Nothing contained herein shall prevent the Lessee or the Lessor from carrying at its own expense additional insurance in excess of or in addition to that required hereunder; provided that no such insurance may be obtained which would limit or otherwise adversely affect the coverage or payment of any insurance required to be maintained pursuant to this Article 9 or prevent the payment of a policy premium which, if not paid by the Lessee, would invalidate the required coverage.

ARTICLE 10

EVENT OF LOSS; DAMAGE

10.1. Event of Loss with Respect to DBX Lease Equipment. Upon the occurrence of an Event of Loss with respect to the DBX Lease Equipment, the Lessee shall either make payment to the Lessor or substitute equipment for the Items of DBX Lease Equipment subject to such Event of Loss as provided, respectively, in paragraphs (a) and (b) below (failure by the Lessee to make such election being deemed to be an election of alternative (a)).

(a) If the Lessee shall elect to proceed in accordance with this paragraph (a), the Lessee shall, not later than the earlier of (x) the DBX Lease Stipulated Loss Value Date next following receipt of insurance proceeds in respect of such Event of Loss and (y) the DBX Lease Stipulated Loss Value Date next following the date which is 45 days following such Event of Loss, pay or cause to be paid to the Lessor the DBX Lease Stipulated Loss Value for the Item of DBX Lease Equipment, computed as of the date of payment (provided that (i) if the DBX Lease Stipulated Loss Value Date on which such payment occurs is also a Basic Rent Payment Date or (ii) if the Event of Loss occurs prior to a Basic Rent Payment Date, and the DBX Lease Stipulated Loss Value Date on which payment occurs is after that intervening Basic Rent Payment Date, then in each case the Basic Rent payable on such Basic Rent Payment Date and such DBX Lease Stipulated Loss Value Date shall be payable as if the DBX Lease Equipment in respect of which the DBX Lease Stipulated Loss Value is payable had not been subject to an Event of Loss), it being understood that in the event the Lessee shall be required to pay, and shall pay, DBX Lease Stipulated Loss Value pursuant to Section 13.1(a), or liquidated damages pursuant to Sections 13.1(c) or 13.1(d) and any interest thereon, then, to the extent of such payment and giving proper effect to the timing of such payment, the Lessee's obligation to pay DBX Lease Stipulated Loss

Value thereon pursuant to this Section 10.1(a) shall be reduced.

At such time as the Lessor shall have received the DBX Lease Stipulated Loss Value specified above, together with all other amounts then due and payable hereunder, including any Rent payable on the DBX Lease Stipulated Loss Value Date, and under any other Operative Documents, (A) the obligation of the Lessee to pay Basic Rent hereunder with respect to the DBX Lease Equipment subject to the Event of Loss which would otherwise become due and payable after, but not on or before, the DBX Lease Stipulated Loss Value Date next following the date of such Event of Loss, shall terminate, provided that if a Basic Rent Payment Date shall occur after the date of such Event of Loss but prior to the date of such payment, the Lessee shall pay on such Basic Rent Payment Date the Basic Rent that would have been due on such Basic Rent Payment Date if such Event of Loss had not occurred, (B) the DBX Lease Term shall end as to the DBX Lease Equipment subject to such Event of Loss and (C) the Lessor shall Transfer to the Lessee or as the Lessee shall direct, subject to the rights of any insurer: (1) the Items of DBX Lease Equipment which were subject to such Event of Loss and (2) all claims, if any, relating to the leasehold interest arising from such Event of Loss against third parties for damage to or loss of the DBX Lease Equipment which was subject to such Event of Loss. Upon such Transfer, the DBX Lease Equipment which is subject to such Transfer shall cease to be an Item of DBX Lease Equipment hereunder. The net proceeds of all such claims relating to the leasehold interest against third parties arising from such Event of Loss, if any, after payment of the Lessor's and the Lessee's out-of-pocket costs and expenses shall be applied in the same manner as the proceeds of insurance are applied pursuant to Section 9.3(a).

(b) Upon the occurrence of an Event of Loss with respect to any Item of DBX Lease Equipment (the "Destroyed Equipment"), if the Lessor shall not have commenced to exercise its rights under Article 13 hereof with respect to a DBX Lease Event of Default which has occurred and is continuing and if the Lessee shall elect to proceed in accordance with this paragraph (b), the Lessee shall within 120 days after the date of such Event of Loss convey to the Lessor substitute mass transit commuting vehicular equipment substantially similar to the Destroyed Equipment having a Fair Market Sales Value, residual value and estimated useful life at least equal to the Fair Market Sales Value, residual value and estimated useful life of, and being in as good operating condition as, the Destroyed Equipment immediately prior to the occurrence of such Event of Loss assuming that the Destroyed Equipment was at that time in the condition and repair required to be maintained hereunder.

Upon full compliance by the Lessee with the terms of Sections 10.1(b) and 10.2 and if no DBX Lease Default or DBX Lease Event of Default shall have occurred and be continuing, the Lessor shall Transfer to the Lessee or as the Lessee shall direct, subject to the rights of any insurer: (i) the Destroyed Equipment and (ii) all claims, if any, arising from such Event of Loss against third parties for damage to or loss of the Destroyed Equipment. Upon such Transfer, the Destroyed Equipment shall cease to be an Item of DBX Lease Equipment hereunder.

10.2. Documents Required in Connection with Substitution. At the time of any substitution for any Item of DBX Lease Equipment pursuant to Section 10.1(b), the Lessee will deliver to the Lessor at no expense to the Lessor the following and the following conditions precedent shall be satisfied:

(a) an Officer's Certificate of the Lessee stating (A) the model numbers of the replacement Item of DBX Lease Equipment (the "Substitute DBX Lease Equipment") and the name of the manufacturer of the Substitute DBX Lease Equipment, (B) that the Substitute DBX Lease Equipment is in good operating condition and repair, is of a type substantially similar to the Destroyed Equipment and meets the applicable useful life and value requirements and the other requirements of Section 10.1(b), (C) that all conditions precedent provided for in Section 10.1(b) relating to such substitution have been complied with, (D) that there exists no DBX Lease Default or DBX Lease Event of Default other than a DBX Lease Default described in Section 12(e), (E) that the Lessor has valid and legal title to such Substitute DBX Lease Equipment free and clear of all Liens other than Permitted Liens, and (F) that all necessary Government Approvals have been obtained and are in full force and effect and constitute sufficient authorization therefor;

(b) a bill of sale in form and substance reasonably satisfactory to the Lessor, containing full warranties as to title;

(c) a supplement to this Lease in form and substance reasonably satisfactory to the Lessor;

(d) with respect to Destroyed Equipment, a certificate of an independent expert satisfactory to the Lessor stating (A) the Fair Market Sales Value, residual value and estimated useful life of the Destroyed Equipment immediately preceding the occurrence of the Event of Loss assuming that the Destroyed Equipment at that time had been maintained in the condition and repair required by this Lease and (B) the Fair Market Sales Value, residual value and

estimated useful life of the Substitute DBX Lease Equipment;

(e) an opinion of counsel reasonably satisfactory to the Lessor with respect to such bill of sale and such supplement to this Lease, such opinion in each case to be in form and substance reasonably satisfactory to the Lessor;

(f) a written report of a recognized insurance broker confirming the maintenance of insurance with respect to the Substitute DBX Lease Equipment sufficient to comply with Article 9;

(g) an assignment to the Lessor of all assignable rights, warranties and representations with respect to the Substitute DBX Lease Equipment; and

(h) filings with respect to the Substitute DBX Lease Equipment of the type required by Section 8.1(b) of the DBX Purchase Agreement.

10.3. Application of Payments from Governmental Authorities for Requisition of Title. Any payments (other than insurance proceeds the application of which is provided for in Article 9) received at any time by the Lessor or the Lessee from any Governmental Authority or other Person with respect to an Event of Loss resulting from the condemnation, confiscation, theft, disappearance or seizure of, or requisition of title to or use of any Item of DBX Lease Equipment shall be applied as follows:

(a) unless such Items are replaced pursuant to Section 10.1(b), so much of such payments as shall not exceed the amounts due under clauses (i) and (ii) of Section 10.1(a) shall be applied in reduction of the Lessee's obligation to pay such amounts, if not already paid by the Lessee, or, if already paid by the Lessee, shall be applied to reimburse the Lessee for its payment of such amounts, and the balance, if any, of such payment remaining thereafter will be paid over to or retained by the Lessee; or

(b) if such Items are replaced pursuant to Section 10.1(b), such payments shall be paid over to or retained by the Lessee, provided that the Lessee shall have fully performed or, concurrently therewith will fully perform, the terms of Section 10.1(b).

Nothing in (a) or (b) above shall be construed to provide any payment to the Lessee until all liabilities arising under the tax indemnity provisions of the DBX Purchase Agreement and the VAT Agreement associated therewith have been paid to the

Lessor.

10.4. Application of Payments During Existence of DBX Lease Event of Default. Notwithstanding anything contained in this Lease to the contrary, any amount referred to in Section 10.3 which is payable to the Lessee shall not be paid to the Lessee, or, if it has previously been paid to the Lessee, shall be promptly paid by the Lessee to the Lessor, if at the time of such payment a DBX Lease Default or a DBX Lease Event of Default shall have occurred and be continuing. In such event all such amounts shall be paid to and held by the Lessor as security for the obligations of the Lessee to make payments under any Operative Document or to pay Rent hereunder or, at the Lessor's option, applied by the Lessor toward payment of any of such obligations of the Lessee at the time due hereunder or under any Operative Document as the Lessor may elect. At such time as there shall not be continuing any DBX Lease Event of Default or DBX Lease Default, all such amounts at the time held by the Lessor in excess of the amount, if any, which the Lessor shall have elected to apply as above provided shall be paid to the Lessee.

10.5. Priority of ETA Trustee. Notwithstanding anything herein to the contrary (including the provisos contained in Sections 9.5 and 10.4), all interests of the Lessor in insurance proceeds or any other payments received at any time by the Lessor or the Lessee from any Governmental Authority or other Person with respect to an Event of Loss resulting from the condemnation, confiscation, theft, disappearance or seizure of, or requisition of title to or use of any Item of Equipment shall be subject to the prior rights of the ETA Trustee in such insurance proceeds or payments pursuant to the Municipal Sublease, provided, that it is acknowledged that the ETA Trustee has no right to any such insurance proceeds or any other payments with respect to the Additional Equipment.

ARTICLE 11

ASSIGNMENTS

Except as set forth in Article 17 and as contemplated by the DBX Purchase Agreement, this Lease shall not be assignable in whole or in part by the Lessor to any Person without the consent of the Lessee (which consent shall not be unreasonably withheld).

ARTICLE 12

DBX LEASE EVENTS OF DEFAULT

The following events shall constitute DBX Lease Events

of Default (whether any such event shall be voluntary or involuntary or 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 Governmental Authority):

(a) any payment of Basic Rent or DBX Lease Stipulated Loss Value shall not be paid by the Lessee within 10 days after the same shall become due; or

(b) any other payment of Rent shall not be paid by the Lessee within 15 days after the same shall become due; or

(c) any indemnity payment to the Lessor in accordance with Section 8.2 or 8.3 of the DBX Purchase Agreement shall not be paid by the Lessee when due and such nonpayment shall continue unremedied for a period of 30 days after written notice thereof by the Lessor to the Lessee; or

(d) insurance on the DBX Lease Equipment shall not be carried or maintained in compliance with the provisions of Article 9 or such insurance is cancelled (and not previously or contemporaneously replaced) for any reason whatsoever, or any Item of DBX Lease Equipment shall be operated or located in any area or on any route or in any manner excluded from coverage by any insurance required by the terms of Article 9; or

(e) the Lessee shall fail to perform or observe any other covenant or agreement to be performed or observed by it hereunder or under any other Operative Document and any such failure shall continue unremedied for a period of 30 days after written notice thereof to the Lessee by the Lessor, provided, that if such failure can be remedied but not within such 30-day period and the Lessee is taking all such action as the Lessor deems appropriate and necessary to remedy such failure, such period shall be extended for such longer period as may be reasonably necessary up to an additional 90 days; or

(f) any representation or warranty made by the Lessee herein or in any other Operative Document or in any document or certificate furnished by the Lessee pursuant to any Operative Document shall prove to be incorrect as of the date made in any material respect and, except in the case of representations or warranties made as of the Closing Date, the condition which made such representation or warranty incorrect if remediable shall continue unremedied for a period of 30 days after written notice thereof by the Lessor to the Lessee; or

(g) a receiver, liquidator or trustee for the Lessee or for all or substantially all of the properties or assets of the Lessee shall be appointed by court or governmental order and such order shall remain in effect for more than 90 days; or

(h) the Lessee shall file a petition in voluntary bankruptcy or the Lessee shall otherwise request protection under any provision of any bankruptcy or insolvency law (as now or hereafter in effect), or expressly consent to the filing of any petition against it under any such law, or make an assignment for the benefit of its creditors, or expressly consent to the appointment of a receiver, trustee or liquidator of it or of all or substantially all of its properties or assets; or

(i) a petition against the Lessee in a proceeding or case under any bankruptcy laws or other insolvency laws (as now or hereafter in effect) shall be filed and shall not be withdrawn or dismissed within 90 days thereafter, or, in case the approval of such petition by a court of competent jurisdiction is required, the petition as filed or amended shall be approved by such a court as properly filed and such approval shall not be withdrawn or the proceeding dismissed within 90 days thereafter, or a decree or order for relief in respect of the Lessee shall be entered by a court of competent jurisdiction in an involuntary case under the Federal bankruptcy laws, as now or hereafter constituted, or any other similar law, as now or hereafter constituted, and such decree or order shall remain in effect and unstayed for a period of 90 days, or if, under the provisions of any law providing for reorganization or winding-up of corporations which may apply to the Lessee, any court of competent jurisdiction shall assume jurisdiction, custody or control of the Lessee or of any substantial part of the property of the Lessee, and such jurisdiction, custody or control shall remain in force unrelinquished, unstayed or unterminated for a period of 60 days; or

(j) final judgment for the payment of money in excess of $10,000,000 or final judgments which in the aggregate exceed $25,000,000 shall be rendered against the Lessee and the same shall remain undischarged for a period of 90 days during which execution of such judgment shall not be effectively stayed; or

(k) if for any reason any material provision of this Lease or the DBX Purchase Agreement obligating the Lessee shall not be in full force and effect in accordance

with its terms or shall cease to be the lawful, valid and binding obligations of the Lessee; or

(l) if a Municipal Sublease Event of Default or an Event of Nonappropriation under the Municipal Sublease shall have occurred and be continuing.

For purposes of Section 12(e), a failure to perform or observe a covenant or agreement is capable of being remedied if, in the reasonable opinion of the Lessor, the condition that caused such failure can be removed or rectified, compliance with the covenant or agreement can be effected and any adverse consequences caused by such failure can be cured to the reasonable satisfaction of each Person entitled to enforce such covenant or agreement. For purposes of Section 12(f), an incorrect representation or warranty is capable of being remedied if the condition that made the representation or warranty incorrect can, in the reasonable opinion of the Lessor, be removed or rectified.

ARTICLE 13

REMEDIES; APPLICATION OF AMOUNTS REALIZED; FAIR MARKET SALES VALUE

13.1. Remedies. Upon the occurrence of any DBX Lease Event of Default and at any time thereafter so long as the same shall be continuing, the Lessor may, at its option, declare by notice to the Lessee this Lease to be in default, and at any time thereafter so long as all outstanding DBX Lease Events of Default shall not have been remedied the Lessor may, in addition to any other remedies provided herein, exercise any one or more of the following remedies with respect to any or all of the DBX Lease Equipment as the Lessor in its sole discretion shall elect (subject to the penultimate paragraph of this Section 13.1):

(a) The Lessor, by notice to the Lessee specifying a payment date not earlier than 10 days, and not more than 30 days, from the date of such notice, may require the Lessee to pay to the Lessor, and the Lessee hereby agrees that it will pay to the Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain, and not as a penalty, and in lieu of any further payments of Basic Rent hereunder, an amount equal to the sum of (i) all unpaid Basic Rent payable on each Basic Rent Payment Date occurring on or before the DBX Lease Stipulated Loss Payment Date next following the payment date specified in such notice, plus (ii) an amount equal to the DBX Lease Stipulated Loss Value for any or all of the DBX Lease Equipment as the Lessor in its sole discretion shall elect calculated as of the DBX

Lease Stipulated Loss Value Date next following the payment date specified in such notice (unless such payment date shall be a DBX Lease Stipulated Loss Value Date, in which case DBX Lease Stipulated Loss Value shall be computed as of such DBX Lease Stipulated Loss Value Date), plus (iii) interest, from the date due until the date paid, at the Overdue Interest Rate on any payment of Rent or DBX Lease Stipulated Loss Value not paid when due in accordance with clause (i) or (ii) of this paragraph (a).

(b) Upon demand, the Lessor may cause the Lessee at no expense to the Lessor to, and the Lessee hereby agrees that it will, promptly redeliver or cause to be redelivered, any Item or Items of DBX Lease Equipment to the Lessor with all reasonable dispatch and in the same manner and in the same condition as if such Item or Items were being redelivered at the expiration of the DBX Lease Term in accordance with all of the provisions of Article 15, and all the provisions of said Article shall apply to such redelivery; or the Lessor or its agent, at the Lessor's option, without further notice, may, but shall be under no obligation to, retake any Item or Items of DBX Lease Equipment wheresoever found and irrespective of whether the Lessee or any other Person may be in possession of such Item or Items, all without prior demand and without legal process, and for that purpose the Lessor or its agent may enter any place where such Item or Items may be and may take possession thereof, without the Lessor or its agent incurring any liability by reason of such retaking or otherwise.

(c) The Lessor or its agent may sell any Item or Items of DBX Lease Equipment at public or private sale, as the Lessor may determine, or otherwise may dispose of, hold, use, operate, lease (whether for a period greater or less than the balance of what would have been the DBX Lease Term) to others or keep idle such Item or Items, all on such terms and conditions and at such place or places as the Lessor may determine and all free and clear of any rights of the Lessee and of any claim of the Lessee, in equity, at law or by statute, whether for loss or damage or otherwise, and without any duty to account to the Lessee, provided, that (i) if the Lessor or its agent shall sell such Item or Items, the Lessee's obligation to pay Basic Rent with respect to such Item or Items as is sold for any period after the date of such sale shall terminate and such Item or Items shall cease to be subject to this Lease from and after the date of such sale, and (ii) the Lessee's obligation to pay Basic Rent for any period after the Lessee shall have been deprived of possession of such Item or Items pursuant to this Article 13 shall be reduced by the net proceeds, if any, received by the

Lessor from leasing such Item or Items to, or otherwise permitting its use by, any Person other than the Lessee for all or any portion of such period. In the event the Lessor shall have sold any Item or Items of DBX Lease Equipment pursuant to this Section 13.1(c) (and prior thereto shall not have exercised its rights under Section 13.1(d)), the Lessor may demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor, as liquidated damages for the loss of a bargain and not as a penalty, on the DBX Lease Stipulated Loss Value Date next following such sale, any unpaid Basic Rent due on or before such DBX Lease Stipulated Loss Value Date plus the amount of any difference between the net proceeds of such sale paid to the Lessor and the DBX Lease Stipulated Loss Value for such Item or Items, computed as of such DBX Lease Stipulated Loss Value Date, unless such sale occurs on a DBX Lease Stipulated Loss Value Date, in which case DBX Lease Stipulated Loss Value shall be computed as of such DBX Lease Stipulated Loss Value Date. Such payment shall be in lieu of all Basic Rent due in respect of such Item or Items after such DBX Lease Stipulated Loss Value Date.

(d) Whether or not the Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under Sections 13.1(b) or 13.1(c) (other than a sale under Section 13.1(c)), the Lessor may, at any time prior to the time that any Item or Items of DBX Lease Equipment shall have been sold by the Lessor pursuant to Section 13.1(c), by written notice to the Lessee requesting that the Fair Market Sales Value of such Item or Items be determined, demand that the Lessee pay to the Lessor, and the Lessee shall pay to the Lessor on the first Basic Rent Payment Date occurring at least 10 days after the determination of such Fair Market Sales Value (herein called the "Designated Payment Date"), as liquidated damages for loss of a bargain and not as a penalty (in lieu of all payments of Basic Rent becoming due after the Designated Payment Date), any unpaid Basic Rent due on or before the Designated Payment Date plus an amount equal to the excess, if any, of the DBX Lease Stipulated Loss Value for such Item or Items as of the Designated Payment Date over the Fair Market Sales Value of such Item or Items.

(e) The Lessor by written notice to the Lessee may (1) terminate this Lease without relieving the Lessee of its obligations hereunder as to the DBX Lease Equipment; (2) exercise any other right or remedy which may be available under Applicable Law; and/or (3) proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof.

In any and all events, the Lessee shall be liable for any and all Supplemental Rent payable hereunder and all amounts payable by the Lessee under the DBX Purchase Agreement before, during or after the exercise of any of the foregoing remedies and also for all legal fees and any other costs and expenses whatsoever incurred by the Lessor by reason of the occurrence of any DBX Lease Event of Default or by reason of the exercise by the Lessor of any remedy hereunder in connection with any DBX Lease Event of Default including, without limitation, any costs and expenses incurred by the Lessor in connection with any retaking of the DBX Lease Equipment or, upon the redelivery or retaking of the DBX Lease Equipment in accordance with this Section 13.1, the placing of the DBX Lease Equipment in the condition required by and otherwise complying with the terms of Article 15.

No remedy referred to in this Section 13.1 is intended to be exclusive, but each shall be cumulative and is in addition to, and may be exercised concurrently with, any other remedy which is referred to in this Section 13.1 or which may otherwise be available to the Lessor under Applicable Law. Subject to the payment in full of all of the Lessee's obligations under the Operative Documents, there shall be deducted from the aggregate amount recoverable by the Lessor pursuant to this Section 13.1 the net balance, if any, remaining of any monies held by the Lessor pursuant to Sections 9.5 and 10.4 which would have been required by the terms of this Lease to have been paid to the Lessee but for the occurrence of a DBX Lease Event of Default. No express or implied waiver by the Lessor of any DBX Lease Event of Default shall in any way be, or be construed to be, a waiver of any further or subsequent DBX Lease Event of Default.

At any public or private sale of an Item of DBX Lease Equipment pursuant to this Section 13.1, the Lessee may bid for and purchase such property. The Lessor agrees to give the Lessee at least 15 days prior written notice of the date fixed for any public sale of an Item of DBX Lease Equipment or of the date on or after which will occur any private sale or on or after which will occur the execution of any contract providing for any private sale and such sale shall be conducted in general so as to afford the Lessee a reasonable opportunity to bid.

13.2. Amounts Realized from Exercise of Remedies. Except for Excluded Payments, all amounts realized by the Lessor from the exercise of any remedies pursuant to Section 13.1 of this Lease, including, without limitation, the sale, releasing or use of the DBX Lease Equipment, shall be applied forthwith by the Lessor in the following order of priority:

First. So much of such amounts as shall be required to reimburse the Lessor for any tax (except to the extent taken into account directly or indirectly in the amount of DBX Lease Stipulated Loss Value payable pursuant to Clause Second of this Section 13.2), expense or other loss incurred by the Lessor in connection with the exercise of such remedies (to the extent not previously reimbursed) shall be applied by the Lessor to the reimbursement of such tax, expense or other loss;

Second. So much of such amounts as shall be required to pay to the Lessor an amount equal to the sum of (a) all Basic Rent payable on each Basic Rent Payment Date occurring on or before such amounts are realized, (b) all other Rent at the time payable to Lessor, (c) the DBX Lease Stipulated Loss Value calculated as of the DBX Lease Stipulated Loss Value Date which next follows or coincides with the date such amounts are realized, plus (d) interest from the date due until the date paid, at the Overdue Interest Rate on any payment of Rent or DBX Lease Stipulated Loss Value not paid when due, shall be retained by Lessor; and

Third. The balance, if any, of such amounts remaining thereafter shall be distributed to the Lessee, and, upon the payment to the Lessor of the amount specified in clause Second of this Section 13.2, the Lessee, as agent for the Lessor, shall use its best efforts to obtain bids for the purchase of all (but not less than all) Items of DBX Lease Equipment with respect to which Lessor has exercised remedies pursuant to Section 13.1. of this Lease and in the event it receives any bid, the Lessee shall, at least five Business Days prior to the proposed date of sale, certify to the Lessor in writing the amount and terms of such bid, the proposed date of such sale and the name and address of the party (who may be the Lessee) submitting such bid. The Lessee shall have the option, exercisable by notice contained in the Lessee's certification of the bid referred to in the immediately preceding sentence, to purchase such Item or Items for the same amount and on the same terms as the bid so certified. On or before the proposed date of sale, the Lessor shall Transfer such Item or Items to the purchaser against payment by the purchaser of the purchase price in same day funds and the Lessor shall execute and deliver such documents evidencing such sale and Transfer as the purchaser shall reasonably request, but, in any event, by bill of sale providing that such Item or Items are transferred and conveyed "AS IS, WHERE IS". THE LESSOR HAS NOT MADE AND

SHALL NOT MAKE ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR SUITABILITY OF ANY SUCH ITEM, AND SHALL TRANSFER ALL OF ITS RIGHT, TITLE AND INTEREST IN SUCH ITEM OR ITEMS TO THE PURCHASER "AS IS, WHERE IS" WITHOUT WARRANTY, EXPRESS OR IMPLIED, except that the Lessor will warrant to the purchaser that each such Item is free and clear of Lessor Liens attributable to it.

13.3. Fair Market Sales Value; Appraisal Procedure. For purposes of Sections 10.1(b), 13.1(d) and 16, the "Fair Market Sales Value" of the DBX Lease Equipment, or any Item thereof, as of any date shall be the cash price that would be obtained in an arm's-length transaction between an informed and willing buyer (including without limitation a lessee currently in possession but not including a used equipment dealer or buyer of scrap) under no compulsion to buy, and an informed and willing seller under no compulsion to sell. Fair Market Sales Value shall not include the cost of removal or delivery of the DBX Lease Equipment. In determining Fair Market Sales Value, it shall be assumed that the Lessee has complied with all of the terms, provisions and conditions of this Lease and that the DBX Lease Equipment is in the condition and configuration required upon return to the Lessor.

The Fair Market Sales Value of the Items of DBX Lease Equipment in question shall be mutually agreed upon by the parties to this Lease. Upon the determination by either party to this DBX Lease that it and the other party to this Lease are unable to agree upon such Fair Market Sales Value, such party shall deliver to the other party a written notice appointing a recognized independent appraiser to determine such Fair Market Sales Value. Within 30 days after receipt of such written notice from one party to this Lease, the other party hereto shall deliver to such party a written notice appointing a recognized independent appraiser selected by such other party to determine such Fair Market Sales Value. The two appraisers so appointed shall meet promptly to determine such Fair Market Sales Value of the DBX Lease Equipment (or in the event a party fails to appoint an appraiser within 30 days, such determinations shall be made promptly, and in any case within the next 20 days, by the appraiser appointed by such other party). If two appraisers are selected by the Lessor and the Lessee, and, within 30 days after the appointment of the second appraiser, the two appraisers shall be unable to agree upon such Fair Market Sales Value, a third recognized independent appraiser shall be chosen within five days thereafter by the mutual consent of such first two appraisers or if such first two appraisers fail to agree upon the appointment

of a third appraiser within such five-day period, such appointment shall be made by the American Arbitration Association. The decision of the third appraiser so appointed and chosen shall be given within a period of 30 days after the selection of such third appraiser. Any decision in which the first two appraisers so appointed and acting hereunder concur (or, in the event that a second appraiser is not appointed as provided in this paragraph, the decision of the first appraiser appointed pursuant to this paragraph) shall in all cases be binding and conclusive upon the Lessor and the Lessee and, in the event that a third appraiser is appointed as aforesaid, the appraisal of such third appraiser shall in all cases be binding and conclusive on the Lessor and the Lessee. In any appraisal pursuant to Section 10.1(b), the Lessor and the Lessee each shall pay the fees and expenses of the appraiser appointed by it and shall share equally the fees and expenses of the third appraiser, if any. In any appraisal pursuant to Section 13.1(d), the fees and expenses of all appraisers appointed hereunder shall be paid solely by the Lessee.

ARTICLE 14

INSPECTION; NOTICE OF DEFAULT; RECORDATION

14.1. Inspection. At all reasonable times during the continuation of this Lease, the Lessee shall furnish to the Lessor such additional information concerning the location, condition, use and operation of the DBX Lease Equipment as the Lessor may reasonably request. Additionally, the Lessee shall permit the authorized representatives of the Lessor, at the Lessor's expense (unless a DBX Lease Default shall have occurred and be continuing, in which case, at the Lessee's expense), to visit and inspect any Item of DBX Lease Equipment, its condition, use and operation and the inspection, maintenance, modification, overhaul and other records maintained in connection therewith; provided that such visits and inspections do not unreasonably interfere with the operations of the Lessee and are done at such reasonable times as the Lessor may request, except that the Lessee shall in any event make such DBX Lease Equipment and records available for inspection within five Business Days of the Lessor's request. The Lessor shall not have any duty to make any such inspection nor shall the Lessor incur any liability or obligation by reason of making or not making any such inspection.

14.2. Notice of DBX Lease Event of Default. Promptly after the Lessee has Actual Knowledge of the occurrence or existence of a DBX Lease Default or a DBX Lease Event of Default, the Lessee shall so notify the Lessor, which notice shall set forth in reasonable detail the circumstances surrounding such DBX Lease Event of Default or DBX Lease Default and shall specify

what actions the Lessee intends to take to cure such DBX Lease Event of Default or such DBX Lease Default.

14.3. Recordation. Forthwith upon the execution and delivery of a supplement to this Lease, the Lessee will cooperate with the Lessor to cause such supplement to be duly filed and recorded as directed by the Lessor and BNE and will also cooperate with the Lessor and BNE to cause this Lease to be duly filed and recorded as directed by the Lessor and BNE, in each case as may be required by Applicable Law to preserve and perfect the respective interests of the Lessor and BNE in, to and under this Lease and in and to each Item of DBX Lease Equipment.

ARTICLE 15

RETURN

15.1. Obligation to Return. Upon the expiration of the DBX Lease Term or upon the earlier termination of this Lease pursuant to Article 12 or 13 hereof, the Lessee shall, at its own risk and expense, return all but not less than all Items of DBX Lease Equipment then subject to this Lease to the Lessor at storage facilities of the Lessee designated by the Lessee, but reasonably satisfactory to the Lessor.

15.2. Logs and Other Records. Upon any return of any Item of DBX Lease Equipment to the Lessor, the Lessee shall deliver to the Lessor all logs, manuals, certificates, data and inspection, modification and overhaul records which have been maintained with respect to such Item.

15.3. Condition Upon Return. The DBX Lease Equipment at the time when it is returned to the Lessor at the expiration of the DBX Lease Term, or pursuant to Section 13, shall be in good operating condition (commercially usable by other commuter rail operators) and appearance, ordinary wear and tear excepted, shall be in the configuration and condition required by Sections 5 and 6, shall meet the standards then in effect under the Interchange Rules of the Association of American Railroads (if applicable) and/or the applicable rules of any Governmental Authority and shall be free and clear of all Liens, including, without limitation, the Equipment Trust Agreement, the Municipal Lease and the Municipal Sublease, and all rights, claims and interests of others, excepting Lessor Liens attributable to the Lessor.

15.4. Storage. Upon the expiration or termination of the lease of any Item of DBX Lease Equipment hereunder, the Lessee will provide storage of such Item beyond the DBX Lease

Term, for a period not exceeding 90 days, at the Lessor's risk and (except with respect to storage charges) expense; provided, that upon a DBX Lease Event of Default hereunder the Lessee will provide storage of such DBX Lease Equipment solely at the Lessee's risk and at no expense to the Lessor but only for a period not exceeding 90 days after receipt by the Lessor of a notice from the Lessee to remove the DBX Lease Equipment. Ninety days following receipt by the Lessor of a notice to remove the DBX Lease Equipment all risk and expense associated with the storage of the DBX Lease Equipment shall be borne solely by the Lessor.

15.5. Work on DBX Lease Equipment. Subject to and without diminution of the Lessee's obligations under Section 15.4 or any other provision of this Lease, upon the expiration or termination of the lease of any Item of DBX Lease Equipment hereunder but prior to the later of the return of such Item or the expiration of any period during which such Item is stored pursuant to Section 15.4, the Lessee shall, upon the Lessor's written request, perform such work on such Item as the Lessor may reasonably request, to the extent reasonably possible without disruption to the Lessee's normal operations or its preexisting commitments (if any); provided, that the foregoing shall not be construed to extend the Lessee's storage obligation beyond the 90 days referred to in Section 15.4. The Lessor shall reimburse the Lessee for such work at reasonable rates.

ARTICLE 16

PURCHASE OPTION; SECURITY INTEREST

16.1. Purchase Option. Not fewer than 270 days prior to the end of the DBX Lease Term, the Lessee may deliver or cause to be delivered to the Lessor a written notice electing to purchase all (but not less than all) Items of DBX Lease Equipment then subject to this Lease at a price equal to the lesser of (a) an amount equal to 10% of Lessor's Cost of the Items of DBX Lease Equipment to be so purchased or (b) the Fair Market Sales Value thereof as of the expiration of the DBX Lease Term, and such election shall be irrevocable.

At the end of the DBX Lease Term, if the Lessee has elected to purchase the DBX Lease Equipment as aforesaid and no DBX Lease Default or DBX Lease Event of Default hereunder has occurred and is continuing, the Lessor shall Transfer the DBX Lease Equipment to the Lessee against payment by the Lessee of the purchase price in same day funds and the Lessor shall execute and deliver such documents evidencing such sale and Transfer as the Lessee shall reasonably request, but, in any event, by bill of sale providing that the DBX Lease Equipment is transferred and

conveyed "AS IS, WHERE IS". THE LESSOR HAS NOT MADE AND SHALL NOT MAKE ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR SUITABILITY OF THE DBX LEASE EQUIPMENT, AND SHALL TRANSFER ALL OF ITS RIGHT, TITLE AND INTEREST IN SUCH ITEMS OF DBX LEASE EQUIPMENT TO THE LESSEE "AS IS, WHERE IS", WITHOUT WARRANTY, EXPRESS OR IMPLIED, except that the Lessor will warrant to the Lessee that the DBX Lease Equipment is free and clear of Lessor Liens attributable to it.

In the event the Lessor has not received the purchase price within 10 Business Days after the end of the DBX Lease Term, without limiting its rights consequent upon the Lessee's default, the Lessee's election to purchase the DBX Lease Equipment shall lapse and the Lessor shall have no obligations to sell and transfer the DBX Lease Equipment to the Lessee.

16.2. Security Interest. The Lessor hereby grants to the Lessee a security interest in the DBX Lease Equipment and in all additions, attachments, accessions and substitutions to or for the DBX Lease Equipment and in any proceeds of the DBX Lease Equipment to secure the obligation of the Lessor to Transfer the DBX Lease Equipment to the Lessee upon an exercise by the Lessee of the election to purchase the DBX Lease Equipment pursuant to Section 16.1 hereof. The Lessor agrees to execute such additional documents, including financing statements, continuation statements, affidavits, notices and similar instruments, in form satisfactory to the Lessee which the Lessee deems necessary or appropriate to establish and maintain the Lessee's security interest created hereunder.

ARTICLE 17

ACKNOWLEDGMENT BY LESSEE

As provided in the DBX Purchase Agreement, the Lessor will sell and assign certain of its accounts receivable hereunder to BNE pursuant to the Accounts Receivable Purchase Agreement. The Lessee acknowledges the existence of, approves of and consents to such sale and assignment, and the Lessee acknowledges receipt of a copy of the Accounts Receivable Purchase Agreement.

ARTICLE 18

NOTICES

Except as otherwise expressly specified or permitted herein, all notices and other communications required or permitted hereunder to be given to or made upon any party hereto

shall be given or made in the manner set forth in Section 13 of the DBX Purchase Agreement.

ARTICLE 19

CONSTRUCTION AND GOVERNING LAWS

19.1. Construction of this Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Any gap thus created shall be filled by application of a provision which best effects the purposes of this Agreement. The section and paragraph headings in this Lease and the table of contents are for convenience of reference only and shall not modify, define, expand or limit any of the terms or provisions hereof. All references herein to numbered sections, exhibits and schedules, unless otherwise indicated, are to sections, exhibits or schedules, as the case may be, of or to this Lease.

19.2. Governing Law. This Lease has been delivered in the Federal Republic of Germany and shall be governed by, and construed in accordance with, the laws of the Federal Republic of Germany, including, without limitation, all matters of construction, validity and performance.

ARTICLE 20

LESSOR'S RIGHT TO TAKE DBX LEASE EQUIPMENT

Without in any way limiting the obligations of the Lessee hereunder, the Lessee hereby irrevocably appoints the Lessor as its agent and attorney, with full power and authority at the time at which the Lessee is obligated to deliver possession of any Item of DBX Lease Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whosoever shall be at the time in possession thereof.

ARTICLE 21

COVENANT OF QUIET ENJOYMENT

So long as no DBX Lease Event of Default shall have occurred and be continuing, the Lessor covenants that it will not interfere with the peaceful and quiet occupation and enjoyment of each Item of DBX Lease Equipment by the Lessee.

ARTICLE 22

LESSOR LIENS

The Lessor agrees that it will not directly or indirectly create, incur, assume or suffer to exist any Lessor Lien attributable to it on or with respect to any Item of DBX Lease Equipment.

ARTICLE 23

PERFORMANCE OF LESSEE

The Lessee agrees to perform all of its obligations under all of the Operative Documents to which it is a party.

ARTICLE 24

AMENDMENTS; MISCELLANEOUS

24.1. Amendments and Waivers. Neither the terms of this Lease nor the definition of any capitalized term used herein which is defined in, or by reference in, Schedule X, as such capitalized term is used herein, shall be altered, modified, amended or supplemented, nor shall this Lease or any other terms hereof be waived or terminated, in any manner whatsoever except by written instrument signed by the party against which the enforcement of such alteration, modification, amendment, supplement, waiver or termination is sought.

24.2. Binding Effect. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

24.3. Money. All amounts and moneys referred to in this Lease shall be construed to mean Dollars.

24.4. Counterparts. This Lease may be executed in any number of counterparts and by any of the parties hereto on separate counterparts, all of which together shall constitute but one and the same instrument.

24.5. Recourse to Lessor Limited. In no case whatsoever shall the Lessor be personally liable on, or for any loss in respect of, any of the representations, warranties, agreements or obligations of the Lessor hereunder as to all of which the parties hereto agree to look solely to the DBX Lease Equipment, except that the Lessor shall be personally liable to the extent specified in Sections 8.1(m) and 8.7 of the DBX Purchase Agreement.

ICC FILING

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Agreement to be duly executed, as a document under seal, as of the day and year first above written.

LESSOR:

DB EXPORT-LEASING GmbH

By: _____
Name:
Title:

By: _____
Name:
Title:

LESSEE:

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

By: _____
Name:
Title:

Approved as to Form
for Massachusetts Bay
Transportation Authority:

_____

ICC FILING

IN WITNESS WHEREOF, the Lessor and the Lessee have each caused this Agreement to be duly executed, as a document under seal, as of the day and year first above written.

LESSOR:

DB EXPORT-LEASING GmbH

By: _____
Name: H. Franklin Blackner, Jr.
Title: Attorney-in-fact

By: _____
Name:
Title:

LESSEE:

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

By: _____
Name: Jane Daly
Title: Deputy General Manager

Approved as to Form
for Massachusetts Bay
Transportation Authority:

_____

ICC FILING

State of New York

ss:

County of New York

On this 2nd day of December, 1988 before me personally appeared, Jane Daly, to me personally known, who being by me duly sworn, says that she is the Deputy General Manager of the Massachusetts Bay Transportation Authority, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

Ellen Extract

Signature of Notary Public

ELLEN EXTRACT
NOTARY PUBLIC, State of New York
No. 31-4849429
Qualified in New York County
Commission Expires March 30, 19 89

ICC FILING

State of New York

ss:

County of New York

On this 22nd day of December, 1988 before me personally appeared, H. Franklin Bloomer, to me personally known, who being by me duly sworn, says that he is the attorney-in-fact of DB Export-Leasing GmbH, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

Ellen Extract

Signature of Notary Public

ELLEN EXTRACT
NOTARY PUBLIC, State of New York
No. 31-4849429
Qualified in New York County
Commission Expires March 30, 1989

ICC Filing

State of New York

ss:

County of New York

On this 15th day of December, 1988 before me personally appeared, Greg. Flynn, to me personally known, who being by me duly sworn, says that ~~(s)~~he is the Gen'l Counsel of Mass. Bay Trans Authority, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

Janet A. Lacey

Signature of Notary Public

JANET A. LACEY
Notary Public, State of New York
No. 24-4799179
Qualified in Kings County
Commission Expires ~~March 30~~, 1989
7/31

Exhibit A to DBX Lease

ACCEPTANCE CERTIFICATE

In accordance with the terms of Article 2 of the Lease Agreement (the "DBX Lease") entered into on the Closing Date between DB Export-Leasing GmbH, as lessor (the "Lessor"), and Massachusetts Bay Transportation Authority, as lessee, ("the Lessee"), the Lessee hereby certifies to the Lessor as follows:

1. The Lessee hereby accepts delivery from the Lessor of, and leases from the Lessor under the DBX Lease, the Items of DBX Lease Equipment described in the attached Annex 1.

2. The Lessee hereby confirms that the Closing Date (as such term is used in the DBX Purchase Agreement) is the date of this Acceptance Certificate set forth below.

3. The Lessee hereby confirms to the Lessor that the Lessee has accepted the DBX Lease Equipment for all purposes of the DBX Lease as being in good working order and repair without defect or inherent vice in condition, design, operation or fitness for use; provided, that nothing contained herein or in the DBX Lease shall in any way diminish or otherwise affect any right the Lessee or the Lessor may have with respect to the DBX Lease Equipment against the Manufacturer, or any subcontractor or supplier of the Manufacturer, under the MBB Purchase Agreement or otherwise.

Dated: December ___, 1988

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY,
Lessee

By: _____
Name:
Title:

ANNEX 1 to DBX Lease

LESSOR'S COST SCHEDULE

Thirty-three commuter rail coaches manufactured by Messerschmitt-Boelkow-Blohm GmbH (the "Manufacturer") pursuant to the Purchase Agreement, dated August 7, 1985, as amended, between the Manufacturer and Massachusetts Bay Transportation Authority ("Lessee"), identified by Lessee and Manufacturer vehicle identification numbers and having the cost more particularly described as follows:

Lessee Identification Number	Manufacturer's Identification Number	Unit Type	Lessor's Cost
517	02-142	Blind Trailer	$849,346
518	02-143	Blind Trailer	849,346
519	02-144	Blind Trailer	849,346
520	02-145	Blind Trailer	849,346
521	02-146	Blind Trailer	849,346
522	02-147	Blind Trailer	849,346
523	02-148	Blind Trailer	849,346
524	02-149	Blind Trailer	849,346
525	02-150	Blind Trailer	849,346
526	02-151	Blind Trailer	849,346
527	02-152	Blind Trailer	849,346
528	02-153	Blind Trailer	849,346
529	02-154	Blind Trailer	849,346
530	02-155	Blind Trailer	849,346
531	02-156	Blind Trailer	849,346
532	02-157	Blind Trailer	849,346
1517	02-125	Control Coach	$992,139
1518	02-126	Control Coach	992,139
1519	02-127	Control Coach	992,139
1520	02-128	Control Coach	992,139
1521	02-129	Control Coach	992,139
1522	02-130	Control Coach	992,139
1523	02-131	Control Coach	992,139
1524	02-132	Control Coach	992,139
1525	02-133	Control Coach	992,139
1526	02-134	Control Coach	992,139
1527	02-135	Control Coach	992,139
1528	02-136	Control Coach	992,139
1529	02-137	Control Coach	992,139
1530	02-138	Control Coach	992,139
1531	02-139	Control Coach	992,139
1532	02-140	Control Coach	992,139
1533	02-141	Control Coach	992,139

Schedule 1
to DBX Lease

BASIC RENT SCHEDULE

Date	Percentage Rate
12/31/1988	0.15414%
6/30/1989	4.88208
12/31/1989	4.88208
6/30/1990	4.88208
12/31/1990	4.88208
6/30/1991	4.88208
12/31/1991	4.88208
6/30/1992	4.88208
12/31/1992	4.88208
6/30/1993	4.88208
12/31/1993	4.88208
6/30/1994	4.88208
12/31/1994	4.88208
6/30/1995	4.88208
12/31/1995	4.88208
6/30/1996	4.88208
12/31/1996	4.88208
6/30/1997	4.88208
12/31/1997	4.88208
6/30/1998	4.88208
12/31/1998	4.88208
6/30/1999	4.88208
12/31/1999	4.88208
6/30/2000	4.88208
12/31/2000	4.88208
6/30/2001	4.88208
12/31/2001	4.88208
6/30/2002	4.88208
12/31/2002	4.88208
6/30/2003	4.88208
12/31/2003	4.88208
6/30/2004	4.88208
12/31/2004	4.88208
6/30/2005	4.88208
12/31/2005	4.88208
6/30/2006	4.88208
12/22/2006	4.72764

Exhibit B
to DBX Lease

DBX LEASE STIPULATED LOSS VALUES

DBX Lease Stipulated Loss Value Date	DBX Lease Stipulated Loss Value Percentage
12/31/1988	121.79537%
6/30/1989	125.60556
12/31/1989	123.94945
6/30/1990	125.35961
12/31/1990	122.25485
6/30/1991	122.19793
12/31/1991	118.23127
6/30/1992	117.93540
12/31/1992	113.74895
6/30/1993	113.26483
12/31/1993	109.00418
6/30/1994	108.47010
12/31/1994	104.14166
6/30/1995	103.55376
12/31/1995	99.18224
6/30/1996	98.56394
12/31/1996	94.17200
6/30/1997	93.54489
12/31/1997	89.15360
6/30/1998	88.53794
12/31/1998	84.16717
6/30/1999	83.58220
12/31/1999	79.25097
6/30/2000	78.71524
12/31/2000	74.44200
6/30/2001	73.97370
12/31/2001	69.80949
6/30/2002	69.42664
12/31/2002	65.35676
6/30/2003	65.07746
12/31/2003	61.11934
6/30/2004	58.58234
12/31/2004	52.55317
6/30/2005	49.99947
12/31/2005	44.17875
6/30/2006	44.10100
12/22/2006	36.10453