

# HARKINS CUNNINGHAM

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DOCUMENTS FOR  
RECORDATION

November 23, 1992

18010  
RECORDED BY

NOV 23 1992 - 11 15 AM

INTERSTATE COMMERCE COMMISSION

Sidney L. Strickland, Jr.  
Secretary  
Interstate Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D.C. 20423

Dear Secretary Strickland:

Enclosed for recordation with the Interstate Commerce Commission pursuant to Section 11303 of Title 49 of the U.S. Code, and regulations promulgated thereunder, are four original counterparts of a Security Agreement, a primary document, dated as of July 1, 1992.

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

Secured Party:	Consolidated Rail Corporation 1138 Six Penn Center Plaza Philadelphia, PA 19103-2959
Debtor:	The Columbus & Ohio Railroad Company 111 Factory Street Sugarcreek, OH 44681

The equipment affected by the Security Agreement consists of various locomotives specifically described in Schedule A attached to the Security Agreement.

*C. Cunningham*  
*Sidney L. Strickland*

NOV 23 11 04 AM '92

**HARKINS CUNNINGHAM**

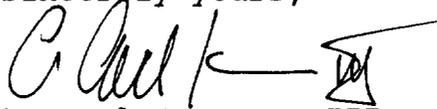
November 23, 1992  
Page 2

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

A Security Agreement dated as of July 1, 1992, covering various locomotives specifically described in Schedule A attached to the Security Agreement.

A fee of \$16.00 is enclosed. Please stamp and return the three copies not needed by the Commission for recordation to the undersigned.

Sincerely yours,

A handwritten signature in black ink, appearing to read "A. Carl Kaseman, III". The signature is written in a cursive style with a long horizontal stroke extending to the right.

A. Carl Kaseman, III  
Counsel for Consolidated Rail  
Corporation

Interstate Commerce Commission  
Washington, D.C. 20423

11/23/92

OFFICE OF THE SECRETARY

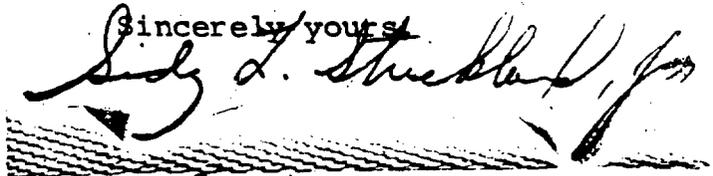
A. Carl Kaseman

Counsel  
Harkins Cunningham  
1300 19th St. N.W. Suite 600  
Washington, D.C. 20036

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 11/23/92 at 11:15am, and assigned re-  
recording number(s). 18010

Sincerely yours,



Secretary

SIDNEY L. STRICKLAND, JR.

Enclosure(s)

SE-30  
(7/79)

**SECURITY AGREEMENT**

18010  
NOV 23 1992 - 11 15 AM  
INTERSTATE COMMERCE COMMISSION

Security Agreement made this 157 day of July, 1992, between Consolidated Rail Corporation, a Pennsylvania corporation having its principal place of business at Six Penn Center Plaza, Philadelphia, Pennsylvania (herein referred to as "Secured Party"), and The Columbus & Ohio River Rail Road Company, an Ohio corporation having its principal place of business at 111 Factory Street, Sugarcreek, Ohio 44681 (herein referred to as "Debtor").

**WITNESSETH**

**WHEREAS**, Debtor desires to borrow from Secured Party the principal sum of \$397,000.00 for the purposes and on the conditions hereinafter described, and

**WHEREAS**, Secured Party is willing to lend to Debtor such amount for such purposes and on the conditions hereinafter described.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises herein contained, Debtor and Secured Party agree:

**SECTION ONE  
CREATION OF SECURITY INTEREST**

**FOR VALUABLE CONSIDERATION**, receipt whereof is hereby acknowledged, Debtor hereby grants to Secured Party a lien and security interest in the railroad equipment, including any additions and accessions thereto and any replacements and substitutions thereof, and in all leases thereof by the Debtor and the proceeds of all of the foregoing (other than in the usual interchange of traffic or in through or run-through service) (hereinafter referred to as the "Collateral") set forth on Schedule A hereto, to secure the payment of the sum of Three Hundred Ninety-Seven Thousand Dollars (\$397,000.00) as evidenced by the Note of even date herewith and attached hereto ("Note") and all other obligations set forth in said Note and herein. Upon payment in full of the above amount, Secured Party shall release such lien and security interest and shall promptly, at Debtor's expense, undertake all actions reasonably requested by Debtor to effectuate the release of such lien and security interest.

**SECTION TWO  
RIGHTS OF DEBTOR IN COLLATERAL**

Debtor warrants and represents that, except for the security interest granted hereby, it is, or upon the payment of the purchase price will be, the owner of the Collateral free and clear of all liens, security interests, or encumbrances including tax liens and other governmental assessments, and Debtor covenants that it will keep the Collateral free and clear of such liens, security interests and encumbrances, and shall defend Collateral against all claims and demands of any or all persons claiming Collateral or any interest thereon.

**SECTION THREE  
FINANCING STATEMENTS**

Secured Party may, at Secured Party's expense cause this Security Agreement to be duly filed promptly upon the execution of this Security Agreement with the Interstate Commerce Commission pursuant to 49 U.S.C. 11303 and deposited with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada and provision will be made for publication of notice of such deposit in the Canada Gazette in accordance with said Section 86. Debtor represents and warrants that no other filing, recording or deposit (or giving of notice) with any other Federal, state or local government or agency thereof is necessary in order to protect the rights of the Secured Party under this agreement in and to the collateral set forth in Schedule A in any State of the United States of America, the District of Columbia or Canada or any Province thereof. Debtor agrees to make the filings described herein for any substitution or replacement items of Collateral. Within a reasonable time after purchase of any item of Collateral or election under Section Seven hereto to make such item part of the Collateral, Debtor will furnish Secured Party with certificates or other, evidence of such filing registering, depositing or recording satisfactory to Secured Party.

**SECTION FOUR  
IDENTIFICATION MARKS**

Debtor will cause the Collateral to be numbered with the identification number set forth in Schedule A hereto, and will replace promptly any such markings which may be removed, defaced or destroyed. Debtor will not change the identification number of any items of Collateral unless and until (i) a statement of new number or numbers to be substituted therefor shall have been

provided to Secured Party and (ii) duly filed and deposited by the Debtor in all public offices where this Security Agreement shall have been filed and deposited.

#### SECTION FIVE USE OF COLLATERAL

Collateral is and shall be used primarily for Debtor's railroad business and Debtor shall not sell or offer to sell or otherwise transfer the Collateral or any interest therein without the prior written consent of Secured Party, nor except as provided in this Section Five shall Debtor transfer or permit the transfer of possession of the Collateral.

So long as Debtor is not in default, Debtor shall be entitled to the possession and use of the Collateral in accordance with the terms of this Security Agreement and, without the prior written consent of Secured Party, Debtor may lease the Collateral to, or permit its use by, a user incorporated in the United States of America (or any State thereof or the District of Columbia), upon lines of railroad owned or operated by Debtor or such user or by a railroad company or companies incorporated in the United States of America (or any State thereof or the District of Columbia), or over which Debtor, such user, or such railroad company or companies have trackage rights or rights for operation of their trains, and upon the lines of railroad of connecting and other carriers in the usual interchange of traffic or in through or run-through service, but only (as expressly shall be stated in any such lease) upon and subject to the terms and conditions of this Security Agreement; provided, however, that the Secured Party's written consent, not to be unreasonably withheld, must be obtained for any lease that is for the term longer than six months; provided, further, however, that Debtor shall not lease or permit the use of the Collateral in service involving operation or maintenance outside the United States of America except that occasional service in Canada shall be permitted so long as such service in Canada does not involve regular operation and maintenance outside the United States of America. No such assignment or lease shall relieve Debtor of its obligations hereunder.

Debtor agrees at all times to comply with all applicable laws of the jurisdictions in which its operations involving the items of Collateral may extend, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of Collateral, to the extent that such laws and rules affect the title, operation or use of the items of Collateral. In the event that, prior to the expiration

of this Security Agreement, such laws or rules require any alteration, replacement addition or modification of or to any part on items of Collateral, the Debtor will conform therewith at its own expense.

#### **SECTION SIX MAINTENANCE**

Debtor will maintain Collateral in as good operating condition as of the date of execution of this Security Agreement (- ordinary wear and tear excepted) and, in compliance with any and all applicable laws and regulations now in force and hereinafter enacted. Secured Party shall have the right, upon reasonable notice to Debtor and at its own risk and expense, to inspect the Collateral during reasonable business hours. Debtor shall, upon reasonable notice, provide Secured Party with the current location of the Collateral.

#### **SECTION SEVEN CASUALTY, OCCURRENCES**

In the event that any items of Collateral shall be or become lost, stolen, destroyed, or in the opinion of Debtor, worn out or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government or by any other government or governmental entity (such occurrence hereinafter referred to as a Casualty Occurrence), Debtor shall promptly notify Secured Party and, at Debtor's option, shall within 30 days: (i) replace the Collateral having suffered the casualty occurrence with railroad equipment of similar type, age and construction; (ii) or pay to Secured Party that portion of the unamortized principal of the debt allocable to the Collateral having suffered the Casualty Occurrence together with any accrued and unpaid interest thereon. Any items of railroad equipment provided under (i) hereto shall become part of the Collateral and subject to all the terms and conditions of the Note executed in connection with this agreement and this Security Agreement.

#### **SECTION EIGHT INSURANCE**

The Debtor will, at all times prior to satisfaction of the Note, at its own expense, cause to be carried and maintained casualty insurance and public liability insurance in respect to the Collateral at the time subject hereto, provided, however, that Debtor shall maintain casualty insurance of at least \$397,000, and provided further, that Debtor shall maintain public liability insurance coverage of at least \$5 million with a maximum self-

retention of \$100,000. All policies with respect to such insurance shall name Secured Party as additional named insured or loss payee, as its interest may appear, shall provide for at least 30-days prior written notice by the insurance carrier to the Secured Party in the event of cancellation, expiration or amendment, and shall include waivers by the insurer or all claims for premiums against the Secured Party. Each such insurance policy shall provide that all provisions thereof except the limits of liability (which shall be applicable to all insureds as a group) and liability for premiums (which shall be solely a liability of the Debtor) shall operate in the same manner as if there were a separate policy covering each insured, and shall be primary and without contribution from any insurance carried by the Secured Party. Debtor shall, at its own expense, make all proofs of loss and take all other steps necessary to collect the proceeds of such insurance. If requested by Secured Party, Debtor shall furnish to Secured Party a certificate of an independent insurance broker acceptable to Secured Party, evidencing the maintenance of the insurance required hereunder. In the event that the Debtor shall fail to maintain insurance as herein provided, the Secured Party may at its option on five business days prior written notice to the Debtor, provide such insurance and, in such event, the Debtor shall upon demand, from time to time, reimburse the Secured Party for the cost thereof. If the Secured Party shall receive any insurance proceeds or condemnation payments in respect of the collateral suffering a Casualty Occurrence, the Secured Party shall, subject to the Debtor's having satisfied the requirements of Section Seven hereof, and provided no Event of Default has occurred and is continuing, pay such proceeds or condemnation payments to the Debtor. All insurance proceeds received by the Secured Party in respect of Collateral not suffering a Casualty Occurrence, shall be paid to the Debtor, upon proof satisfactory to the Secured Party that damage with respect to such Collateral has been fully repaired, provided no Event of Default has occurred and is continuing.

#### **SECTION NINE REIMBURSEMENT OF EXPENSES**

In the event that Debtor fails to keep the Collateral free from liens, security interests and encumbrances in accordance with Section Two hereof or fails to maintain the insurance program set forth in Section Eight hereof, Secured Party, after written notice to Debtor, may, at its option, discharge all such liens, security interests or other encumbrances or pay for insurance on the Collateral and Debtor shall reimburse Secured Party on demand for any payment made or any expense incurred by Secured Party pursuant to the foregoing authorization. Any such disbursement shall bear interest at the late charge rate provided in the

Notice and shall be a further lien on the Collateral subject to the terms and conditions of this Security Agreement.

#### **SECTION TEN REPORTS**

On or before April 30 of each year, commencing with the calendar year 1992, the Debtor will furnish to the Secured Party a certificate signed by an officer of the Debtor (a) setting forth as at the preceding December 31 the amount, description and numbers of the Collateral then included hereunder, and whether it is then undergoing or awaiting repairs (other than running repairs) and, if applicable, the amount description and numbers of any Collateral replacements or substitutions made pursuant to Section Seven hereof.

#### **SECTION ELEVEN DEFAULTS/REMEDIES**

If, during the continuance of this Security Agreement, one or more of the foregoing events (each such event being herein sometimes called an "Event of Default") shall occur:

(A) default shall be made in payment of any amount provided for in this Security Agreement or in the Note attached hereto, and such default shall continue for ten business days after Secured Party has notified Debtor in writing that payment has not been received;

(B) the debtor shall make or permit any unauthorized assignment or transfer of the right to possession of the Collateral, or any items thereof;

(C) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Debtor contained herein and in the note and such default shall continue for 30 days after the written notice from the Secured party to the Debtor specifying the default and demanding that the same be remedied.

(D) a petition under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Debtor and (unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Debtor under this Security Agreement shall not have been and shall not

continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed and otherwise in accordance with the provisions of 11 U.S.C. 1168, or any successor provision as the same may hereafter be amended; or

(E) any other proceeding shall be commenced by or against the Debtor for any relief which includes any modification of the obligations of the Debtor hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, re-adjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any re-adjustments of such obligations), and (unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Debtor under this Security Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receiver's appointed (whether or not subject to ratification) for the Debtor or for the property of the Debtor in connection with any such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such a trustee or trustees or receiver or receivers, within 60 days after such proceeding shall have been commenced;

then, in any such case, the Secured Party:

(a) at its option, may proceed by appropriate court action or actions either at law or in equity to enforce performance by the Debtor of the applicable covenants of this Security Agreement or to recover damages for the breach thereof.

(b) Immediately and without notice upon the occurrence of an Event of default specified in the foregoing paragraphs (D) or (E), or at the option of Secured Party, upon the occurrence of any other Event of Default, by notice in writing to the Debtor declare all obligations of debtor under this Security Agreement and the note attached hereto immediately due and payable and thereupon the Secured Party may by its agents, subject to compliance with all mandatory requirements of law, enter upon the premises of the Debtor or other premises where any of the Debtor may be and take possession of all or any of such items of Collateral.

In addition, the Debtor shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing

remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Secured Party's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any items of Collateral provided, however, that if Secured Party shall sell the Collateral for an amount in excess of all amounts due under this Security Agreement or the Note. Secured Party shall promptly pay such excess to Debtor;

The remedies in this Security Agreement provided in favor of the Secured Party shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity.

#### SECTION TWELVE POSSESSION OF COLLATERAL UPON DEFAULT

If the Secured Party exercises its remedies pursuant to Section Eleven hereof and seeks to realize upon the Collateral, then the Debtor shall forthwith deliver possession of the Collateral to the Secured Party. The Collateral so delivered shall be in the condition required by Section Six hereof. For the purpose of delivering possession, the Debtor shall:

(a) forthwith and in the usual manner give prompt notice to the Association of American Railroads and all railroads to which any item or items of Collateral have been interchanged or which may have possession thereof to return the items of Collateral;

(b) place the items of Collateral upon storage tracks of the Debtor as the Secured party reasonably may designate;

(c) permit the Secured Party to store the Collateral on such tracks at the risk of the Debtor without charge for insurance, rent or storage until such items of Collateral have been sold, leased or otherwise disposed of by the Secured Party; and

(d) transport the same to any place on the lines of railroad operated by the debtor or to any connecting carrier for shipment, all as directed by Secured Party.

The assembling, delivery, storage, insurance and transporting of the Collateral as hereinbefore provided shall be at the expense and risk of the Debtor and are of the essence of this Security Agreement and, upon application to any court of equity having jurisdiction, the Secured Party shall be entitled to a decree against the Debtor requiring specific performance of the covenants of the Debtor so to assemble, deliver, store and transport the Collateral. During any storage period, the Debtor will, at its own expense, maintain and keep the Collateral in the

condition required by the first paragraph of Section Six hereof and will permit and cooperate with the Secured Party or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of the Collateral, to inspect to same in a reasonable manner consistent with industry practice. All rent and per diem charges earned in respect of the Collateral after the date of an event of default under this Security Agreement pursuant to Section Eleven hereof shall belong to the Secured Party, and if received by the Debtor, shall be promptly turned over to the Secured Party.

### **SECTION THIRTEEN NOTICES**

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been received by the addressee on the date of transmission, if by telex, or on the date of actual receipt, if by mail or by hand, if addressed as follows:

(a) if to the Debtor, at 111 Factory Street, Sugarcreek, Ohio 44681, Attention of President.

(b) if to the Secured Party, at 1310 Six Penn Center Plaza, Philadelphia, Pennsylvania 19103, Attention of Director-Project Financing;

### **SECTION FOURTEEN SEVERABILITY; EFFECT AND MODIFICATION OF LEASE**

Any provision of this Security Agreement which is prohibited or unenforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability in such jurisdiction and shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Security Agreement exclusively and completely states the rights and obligations of the Secured Party and the Debtor with respect to the use of the items of Collateral as Collateral and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Security Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Secured Party and the Debtor.

### **SECTION FIFTEEN ASSIGNMENT BY SECURED PARTY**

So long as no Event of default exists hereunder, this Security Agreement and the Note attached hereto shall not be assignable in whole or in part by the Secured Party or any affiliated

company of the Secured Party without the written consent of the Debtor, which shall not be unreasonably withheld, but no such consent shall be required for an assignment to an affiliated company of the Secured Party. All the rights of the Secured Party hereunder shall inure to the benefit of the Secured Party's successors and assigns.

**SECTION SIXTEEN  
LAW GOVERNING**

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. §11303 and such additional rights arising out of the filing or deposit hereof, in any as shall be conferred by the laws of the several jurisdictions in which this Security Agreement shall be filed or deposited.

**IN WITNESS WHEREOF**, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

**CONSOLIDATED RAIL CORPORATION**

BY: Thomas J. McAdams  
**DIRECTOR-PROJECT FINANCING**

**THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY**

BY: [Signature]

OHIO.JFF

COMMONWEALTH OF PENNSYLVANIA :  
: SS:  
COUNTY OF PHILADELPHIA :

On this 5th day of November, 1992, before me personally appeared Thomas J. McFadden, to me personally known, who, being by me duly sworn, says that he is Director-Project Financing of CONSOLIDATED RAIL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Suzanne J. Rossomando  
Notary Public

STATE OF OHIO :  
: SS.  
COUNTY OF Cochran :

NOTARIAL SEAL  
SUZANNE J. ROSSOMANDO, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires May 29, 1995

On this 10th day of August, 1992, before me personally appeared Michael J. Conner, to me personally known, who, being by me duly sworn, says that he/she is VP and COO/CMO of THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Notarial Seal]

Janelle M. Alverson (Alverson)  
Notary Public

JANELLE M. ALVERSON  
Notary Public, State of Ohio  
My commission expires Aug. 6, 1993

**SCHEDULE A**

**LOCOMOTIVE TYPE**

**IDENTIFICATION NUMBER**

GP8	5407
GP8	5408
GP40	3216
GP40	3217

**SECURED PROMISSORY NOTE**

**July 1, 1992**

**Philadelphia, Pennsylvania**

**FOR THE VALUE RECEIVED, the undersigned,**

**THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY, an Ohio corporation ("Maker"), promises to pay to the Order of CONSOLIDATED RAIL CORPORATION ("Conrail") the principal sum of Three Hundred Ninety-Seven Thousand Dollars (\$397,000.00), on or before July 1, 1995, (the "Maturity Date") together with interest from the date hereof on the unpaid principal amount hereof from time to time outstanding at the rate of 9% per annum. Interest accrued to each principal payment date shall be payable concurrently with payments of principal and shall be computed on the basis of a 360-day year.**

**The principal and interest of this Note shall be paid by Maker to Conrail in equal installments of \$12,624.49 each (subject to prepayment as provided below); such payments to commence on August 1, 1992 and continue monthly on the first day of each month thereafter until fully repaid on the Maturity Date provided the final payment shall be sufficient to discharge any unpaid principal, accrued interest and any other amounts then due hereunder. All payments hereunder to Conrail shall be made in immediately available funds. If any Installment Payment due hereunder is not paid on the due date thereof, whether at**

maturity, by acceleration or otherwise maker agrees to pay a late charge at a rate of (a) 11.5% percent per annum, but in any event not in excess of the maximum per annum rate of interest permitted by law, on each such installment payment from and including its date due until the date paid.

If any principal date shall be a Saturday, Sunday or a legal holiday for banks in Pennsylvania, such principal payment date shall be deemed to be on the next succeeding business day.

If at any time the interest rate to be charged hereunder shall be deemed by any competent court of law, governmental agency or tribunal to exceed the maximum rate of interest permitted by any applicable law, then, for such time as the rate would be deemed excessive, its application shall be suspended and there shall be charged instead the maximum rate of interest permissible under such law.

As collateral security for all payments of principal and interest hereunder, the Maker pursuant to a separate Security Agreement of even date herewith (the "Security Agreement") has granted to Conrail a lien and security interest in certain railroad equipment listed and described on Schedule A to the Security Agreement (herein the "collateral"). The terms of said Security Agreement are incorporate herein as if fully set forth hereunder.

Other than Casualty Occurrence payments made pursuant to Section Seven (iii) of the Security Agreement, the Maker shall

have the right to prepay the obligations evidence by this Note ("obligations") in whole or in part as set forth below.

Prepayments. Maker shall have the right to make a voluntary prepayment, in whole or in part, of principal on any scheduled installment payment date. Any partial prepayment shall reduce the principal outstanding by not less than \$5,000. In the event of a partial prepayment the remaining principal installments due under this Note shall be reduced by the Prepaid Installment Amount. The "Prepaid Installment Amount" shall be the amount of prepaid principal divided by the number of installments remaining after such prepayment.

Representations and Warranties.

(a) Maker is a corporation duly organized, validly existing and in good standing under the Laws of the State of Ohio; has the lawful power to own the properties and to engage in the businesses it conducts and is duly qualified and in good standing as a foreign corporation in the jurisdictions wherein the nature of the business transacted by it or property owned by it makes such qualification necessary.

(b) Maker has the power and authority to enter into and perform its obligations under this Note and the Security Agreement and to incur the obligations herein and therein provided for, and has taken all corporate action necessary to authorize

the execution, delivery and performance of this Note and the Security Agreement.

(c) The Security Agreement and this Note when delivered will be valid, binding and enforceable obligations of Maker in accordance with their respective terms.

(d) Maker has good and marketable title to the Collateral subject to no security interest, encumbrance or lien or claim of any third person except as set forth on Appendix I to the Security Agreement.

(e) Maker's current financial statements delivered to Conrail in connection with the loan hereunder have been prepared in accordance with generally accepted accounting principals consistently applied by Maker and its subsidiaries and accurately reflect the financial condition of Maker and its subsidiaries and the results of its operations for the periods covered thereby.

(f) Neither the execution and delivery by Maker of this Note and Security Agreement, nor the consummation by Maker of the transactions contemplated thereby, nor compliance by Maker with the provisions hereof or thereof, conflicts or will conflict with or results or will result in a breach of any of the provisions to the knowledge of Maker, of any applicable law, judgment, order, writ, injunction, decree, rule or regulation of any court, administrative agency or other governmental authority, or any agreement or other instrument to which Maker is a party or by which it

is bound, or constitutes or will constitute a default under any thereof.

(g) No consent, approval or other authorization of or by any court, administrative agency or other governmental authority is required in connection with the execution, delivery or performance by Maker of, or the consummation by Maker of the transactions contemplated by this Note or the Security Agreement.

Affirmative Covenants:

(a) Within ninety (90) days after the close of each quarterly accounting period in each fiscal year, Maker will deliver to Conrail: (i) a consolidated statement of changes in financial position of Maker and its subsidiaries (if any) for such quarterly period (ii) consolidated income statements of Maker and its subsidiaries (if any) for such quarterly period; and (iii) consolidated balance sheets and cash flow statements of Maker and its subsidiaries (if any) as of the end of such quarterly period -- all in reasonable detail, subject to year end adjustment.

(b) Within ninety (90) days after the close of each fiscal year Maker will deliver to Conrail: (i) a consolidated statement of stockholders' equity and a consolidated statement of changes in financial position of Maker and its subsidiaries (if any) for such fiscal year; (ii) a consolidated income statement of Maker and its subsidiaries (if any) for such fiscal year; and (iii) a consolidated balance sheet and cash flow statement of Maker and

its subsidiaries as of the end of such fiscal year -- all in the reasonable detail, including all supporting schedules and comments; the consolidated statement and balance sheet to be audited by an independent certified public accountant selected by Maker, and certified by such accountants to have been prepared in accordance with generally accepted accounting principles consistently applied by Maker and its subsidiaries (if any), except for any inconsistencies explained in such certificate. Maker will deliver to Conrail, on or before April 15 of each year commencing April 15, 1993 a certificate of President that such officer has obtained no knowledge of any Event of Default by Maker, or disclosing all Events of Default of which he has obtained knowledge.

(c) Maker shall promptly pay when due all sums required to be paid and perform all obligations required by Maker under the terms of any agreement imposing liens upon the Collateral, which liens are senior by statute to those of Conrail or in the alternative substitute other Collateral acceptable to Conrail.

(d) Maker will not sell, transfer, exchange or otherwise dispose of the Collateral except as provided in the Security Agreement.

(e) Maker will promptly upon Maker becoming aware of any condition which constitutes default under this Note or the Security Agreement or which, after notice or lapse of time or both, would constitute such a default, provide to Conrail written notice specifying such condition and the nature and statute thereof.

Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

(a) Maker shall fail to pay when due any installments of principal or interest payable hereunder and such failure shall continue for a period of ten (10) business days after written notice of such non-payment from Conrail.

(b) Maker shall fail to observe or perform any other obligation to be observed or performed by it hereunder or under any Security Agreement documents, and such failure shall continue for thirty (30) days after written notice from Conrail to Maker specifying the default and demanding that the same be remedied.

(c) Any financial statement, representation, warranty or certificate made or furnished by Maker to Conrail in connection with this Note or as inducement to Conrail to make the loan hereunder, or in any separate statement or document to be delivered hereunder to Conrail, shall be materially false, incorrect, or incomplete when made.

(d) A petition under Title Eleven of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Maker and (unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Maker under this Note shall not have been and shall not continue to

have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees, within 60 days after such petition shall have been filed and otherwise in accordance with the provisions of 11 U.S.C. §1168, or any successor provision as the same may hereafter be amended; or

(e) Any such proceeding shall be commenced by or against the Maker for any relief which includes, or might result in, any modification or termination of the obligations of the Debtor hereunder under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of such obligations), and (unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Maker under this Note shall not have been and shall not continue to have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Maker or for the property of the Maker in connection with any such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such a

trustee or trustees or receiver or receivers, within 60 days after such proceeding shall have been commenced;

(f) A judgment creditor of Maker shall lawfully obtain possession of any of the Collateral by any means, including, but without limitation, levy restraint, replevin or self-help and Maker does not provided Conrail with other Collateral satisfactory to the Bank within 30 days.

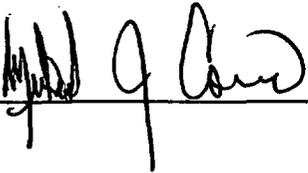
Acceleration. Immediately and without notice upon the occurrence of an Event of Default specified in the foregoing paragraphs (d) or (e), or at the option of Conrail, but only upon notice to Maker, upon the occurrence of any other Event of Default, the unpaid principal balance of this Note and all interest and late charges accrued thereon, shall immediately become due and payable without further action of any kind.

Each installment payment, when paid, shall be applied first to the payment of all late charges, then all interest accrued and unpaid on this Note, then to payment on account of the principal hereof.

Maker hereby waives presentment, demand for payment, notice of dishonor, protest and notice of protest. Maker hereby agrees to pay all expenses (including the reasonable fees and expenses of legal counsel for Conrail) in connection with the enforcement of this Note and collection of amounts payable hereunder.

All rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania. The obligations of Maker hereunder shall bind its successors and assigns.

THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY

By: 

Title: VP and COO/CMO