RECORDATION NO. 20833 FILED

AUG 25 '97 11-35AM

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August 25, 1997

RECORDATION NO. 20833 FILED

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RECEIVED
SURFACE TRANSPORTATION
BOARD

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Re: Massachusetts Bay Transportation Authority (1997-E-FT)

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are two (2) copies of a Lease Agreement (1997-E), dated as of August 22, 1997, a primary and two (2) copies each of the following secondary documents related thereto: Lease Supplement (1997-E), dated August 22, 1997, Sublease Agreement (1997-E), dated as of August 22, 1997, Sublease Supplement (1997-E), dated August 22, 1997 and Loan and Security Agreement (1997-E), dated as of August 22, 1997.

The names and addresses of the parties to the enclosed documents are:

Lease Agreement (1997-E)
and
Lease Supplement (1997-E)

Head Lessor: Massachusetts Bay Transportation Authority
10 Park Plaza
Boston, Massachusetts 02116

Head Lessee: Wilmington Trust Company
1100 North Market Street
Wilmington, Delaware 19890

Sublease Agreement (1997-E)
and
Sublease Supplement (1997-E)

Sublessor: Wilmington Trust Company, Trustee
1100 North Market Street
Wilmington, Delaware 19890

Sublessee: Massachusetts Bay Transportation Authority
10 Park Plaza
Boston, Massachusetts 02116

Loan and Security Agreement (1997-E)

Borrower: Wilmington Trust Company, Trustee
1100 North Market Street
Wilmington, Delaware 19890

Lender: AMBAC Investments, Inc.
One State Street Plaza
New York, New York 10004

A description of the railroad equipment covered by the enclosed documents is set forth on Schedule 7 attached to the Lease Supplement.

Also enclosed is a check in the amount of $120.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return one stamped copy of each of the enclosed documents to the undersigned.

Very truly yours,

Robert W. Alvord

RWA/bg
Enclosures

RECORDATION NO. 20833-D FILED

AUG 25 '97 11-35 AM

LOAN AND SECURITY AGREEMENT
(1997-E-FT)

dated as of August 22, 1997

between

WILMINGTON TRUST COMPANY
not in its individual capacity
but solely as the Trustee under
the Trust Agreement except
as otherwise set forth herein,

and

AMBAC INVESTMENTS INC.,
as the Lender

Lease and Sublease of Rail Equipment

TABLE OF CONTENTS

		Page
SECTION 1.01.	Definitions	4
SECTION 2.01.	Creation, Issue, Form and Term of Loan Certificates.	4
SECTION 2.02.	Payments from Collateral Only	5
SECTION 2.03.	Loan Certificates Equally and Ratably Secured	6
SECTION 2.04.	Method of Payment	6
SECTION 2.05	Application of Payments	6
SECTION 2.06.	Persons Deemed Owners	6
SECTION 2.07.	Registration; Transfer and Exchange of Loan Certificates	7
SECTION 2.08.	Lost, Stolen, Destroyed or Mutilated Loan Certificates	7
SECTION 2.09.	Payment of Expenses on Transfer	8
SECTION 2.10.	Prepayments.	8
SECTION 2.11.	Reset Interest Rate	9
SECTION 2.12.	Illegality.	12
SECTION 2.13	Substitution of Payment Undertaking Agreement; Breakage Loss; Repricing	12
SECTION 3.01.	Application of Rent	13
SECTION 3.02.	Application Upon Prepayment or Loan Event of Default	14
SECTION 3.03.	Application of Amounts Received With Respect to Damage, Etc	14
SECTION 3.04.	Distribution of Certain Other Payments.	15

TABLE OF CONTENTS

Page

SECTION 3.05. Excepted Property 15

SECTION 3.06. Payments to the Equity Investor 15

SECTION 3.07. Investment of Amounts Held by Lender 15

SECTION 4.01. Loan Event of Default 16

SECTION 4.02. Acceleration of Loan Certificates. 18

SECTION 4.03. The Lender's Other Rights 18

SECTION 4.04. Delay or Omission Not a Waiver 20

SECTION 4.05. Restoration of Rights and Remedies 20

SECTION 4.06. Right To Cure Certain Events of Default 20

SECTION 4.07. Purchase 21

SECTION 4.08. Covenants of Trustee 22

SECTION 5.01. Liability of the Trustee Limited 22

SECTION 5.02. Successor Trustee 23

SECTION 5.03. Appointment of the Lender as Attorney; Further Assurances 23

SECTION 5.04. The Lender as Agent 24

SECTION 5.05. Certain Rights of the Trustee, the Trust Company and the Equity Investor 24

SECTION 6.01. Supplements and Amendments 26

SECTION 6.02. Effect of Amendments or Supplements 26

SECTION 6.03. Reference in Loan Certificates to Amendments and

TABLE OF CONTENTS

		Page
	Supplements	26
SECTION 7.01.	Termination of Agreement; Partial and Complete Release of Collateral	27
SECTION 7.02.	No Legal Title to Collateral in Holders; Termination of Interest in Collateral	27
SECTION 7.03.	Notices	27
SECTION 7.04.	Severability	28
SECTION 7.05.	No Oral Modification or Continuing Waivers	28
SECTION 7.06.	Successors and Assigns	28
SECTION 7.07.	Headings	28
SECTION 7.08.	Agreement for Benefit of Certain Persons Only	28
SECTION 7.09.	GOVERNING LAW	28
SECTION 7.10.	Service of Process and Jurisdiction	29
SECTION 7.11.	Counterparts and Effective Date	29
ANNEX A	Schedule of Principal and Interest Payments for Loan Certificate	
EXHIBIT A	Form of Loan Certificate	

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (1997-E-FT), dated as of August 22, 1997, between Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as the Trustee under the Trust Agreement between it and Fifth Third Leasing Company, as Equity Investor (the "Trustee"), except as otherwise provided therein, and AMBAC Investments Inc., as the Lender (the "Lender");

RECITALS:

Capitalized terms used herein have the meanings referred to in Article I hereof.

The Equity Investor and the Trust Company have entered into the Trust Agreement, pursuant to which the Equity Investor has created the Trust for the benefit of the Equity Investor, and the Trustee is authorized and directed to execute and deliver this Agreement and the other Operative Documents.

The Trustee desires by this Agreement to provide for the issuance of the Loan Certificates to the Lender on the Delivery Date and to pledge the property constituting the Collateral as the security for the Loan Certificates.

All things have been done to make the Loan Certificates, when executed by the Trustee and issued and delivered hereunder, the valid, binding, legal and enforceable obligations of the Trustee.

GRANTING CLAUSE

To secure the prompt payment of the principal of and interest on, and all other amounts due with respect to, all Loan Certificates from time to time outstanding hereunder, the performance and observance by the Trustee and the Equity Investor of all of the agreements, covenants and provisions in the Operative Documents for the benefit of the Lender, and the prompt payment of all other amounts due or to become due to the Lender from the Trustee, the Equity Investor, the Sublessee, or any other Person under any of the Operative Documents, the Trustee hereby grants, bargains, sells, assigns, transfers, conveys, mortgages, warrants, pledges and confirms unto the Lender a security interest in, mortgage Lien on, and pledge of, and grants the Lender a first priority security interest in, the following described property, rights and privileges whether now or hereafter acquired other than Excepted Property (such property, rights and privileges as are conveyed pursuant to this Granting Clause, but in any event and always excluding Excepted Property, being hereinafter referred to as the "Collateral"):

(A) the Head Lease Rights and all property now owned or hereafter acquired by the Trustee and subjected to the Sublease;

(B) the Head Lease, any Head Lease Supplement, the Sublease, any Sublease Supplement, any subsublease referred to in Section 6 of the Sublease, the Payment Undertaking Agreement, the Payment Undertaking Pledge Agreement, the Payment Undertaking Agreement Policy, the ABB Lease Pledge Agreement, the Payment Agreement Pledge and the ABB Documents (collectively, the "Collateral Documents"), including all amounts of Rent (including, without limitation, Termination Value, Fair Market Value and Stipulated Loss Value) and all other amounts payable under the Collateral Documents, insurance proceeds and condemnation, requisition and other awards and payments of any kind for or with respect to the Equipment (including proceeds and payments received pursuant to any sale of the Head Lease Rights in any Item of Equipment or of any Item of Equipment under Section 14 or 15 of the Sublease or pursuant to the exercise of any of the remedies provided in Section 17 of the Sublease);

(C) all rights of the Trustee with respect to or arising out of any Collateral Document to exercise any election or option or to give or receive any notice, consent, waiver or approval or to take any other action under any Collateral Document or to accept any surrender or redelivery of any Item of Equipment or any Part thereof, as well as all rights, powers and remedies of the Trustee whether acting under any Collateral Document or by statute or at law or in equity, or otherwise, arising out of any Event of Default;

(D) all moneys and securities relating to or arising out of the Collateral Documents that are now or hereafter required to be paid to, or deposited with, the Lender by or for the account of the Trustee or the Sublessee pursuant to the terms of any Collateral Document;

(E) all other property of every kind and description and interests therein now held or hereafter acquired by the Trustee pursuant to any term of any Collateral Document, wherever located and subjected to the Lien of this Agreement by a supplement hereto, and the Lender is hereby authorized to receive any such property subject to and in accordance with the terms of this Agreement as then supplemented;

(F) all proceeds of the foregoing of whatever kind or nature, including all claims against third parties for destruction, loss or damage to any of the foregoing or otherwise; and

(G) for the avoidance of doubt, all of the foregoing rights, property and proceeds with respect to any Successor Sublease and documents executed in connection therewith.

BUT EXCLUDING, HOWEVER, from the Collateral subject to the foregoing Granting Clause (i) all Excepted Property, and (ii) any payments or amounts which have been distributed to the Trustee or any other Person in accordance with the provisions of this Agreement, AND SUBJECT TO Sections 2.02, 3.05, and 6.01, and the provisions with respect to Excepted Rights set forth in Section 5.05.

TO HAVE AND TO HOLD the Collateral unto the Lender for the uses and purposes and subject to the terms and provisions set forth in this Agreement, to remain in full force and effect until terminated as provided in Section 7.01.

The Sublessee has agreed to make all payments of Rent and all other amounts which are required pursuant to the Operative Document to be paid to or deposited with the Trustee (other than Excepted Property) directly to the Lender at such address or addresses in the United States as the Lender shall specify, for application as provided in this Agreement. Further, the Trustee agrees that promptly on receipt thereof, it will transfer to the Lender any and all moneys from time to time received by it constituting part of the Collateral, whether or not expressly referred to in the immediately preceding sentence, for distribution pursuant to this Agreement, except for any amounts distributed to it by the Lender under this Agreement.

The Trustee does hereby warrant and represent that it has not sold, assigned or pledged, and hereby covenants that it will not, except with respect to Excepted Property and as provided herein, sell, assign or pledge, so long as this Agreement shall remain in effect and the Lien hereof shall not have been released pursuant to Section 7.01 hereof, any of its estate, right, title or interest hereby assigned, to anyone other than the Lender, and the Trustee covenants that, with respect to such estate, right, title and interest hereby assigned, it will not, except as provided in this Agreement and except as to Excepted Property and Excepted Rights, (i) accept any payment under the Collateral Documents from the Sublessee, (ii) except as set forth in Section 21(a) of the Participation Agreement, enter into any agreement amending, modifying or supplementing any of the Collateral Documents, execute any waiver or modification of, or consent under, the terms of any of the Collateral Documents, or revoke or terminate any of the Collateral Documents, (iii) settle or compromise any claim arising under any of the Collateral Documents, or (iv) submit or consent to the submission of any dispute, difference or other matter arising under or in respect of any of the Collateral Documents to arbitration thereunder except if expressly permitted to do so hereunder.

The Trustee hereby ratifies and confirms its obligations under the Operative Documents and does hereby agree that it will not take any action, the taking of which would result in an adverse alteration or impairment of any of the rights in favor of the Lender created by any Collateral Document or the assignment hereunder.

IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. **Definitions**. For purposes of this Agreement, capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in Appendix A to the Participation Agreement (1997-E-FT), dated as of August 22, 1997, among the Lender, the Trustee, Fifth Third Leasing Company, as Equity Investor, Ambac Asset Funding Corporation, as Payment Undertaker, and Massachusetts Bay Transportation Authority, as Head Lessor and Sublessee, and the rules of usage set forth therein shall apply hereto.

ARTICLE II

THE LOAN CERTIFICATES

SECTION 2.01. **Creation, Issue, Form and Term of Loan Certificates**.

(a) There are hereby authorized to be issued hereunder, in the form attached as Exhibit A, one series of Loan Certificates in the aggregate principal amount of FT=$31,853,476.95. Each series of Loan Certificates shall be associated with a particular Equipment Lot. The Loan Certificates shall be fully registered Loan Certificates numbered from one upwards and shall be dated the Delivery Date.

(b) The aggregate principal amount of the Loan Certificates of each series shall be due and payable in installments, payable on the Payment Dates, as set forth in Annex A hereto and to each Loan Certificate. Payments of principal due and payable on a Loan Certificate of a particular series on any Payment Date shall be in an amount equal to such Loan Certificate's pro rata share of the aggregate installments of principal due and payable on the Loan Certificates for such series, as of such Payment Date; provided, however, that the final principal payment on each Loan Certificate shall in any and all events equal the then outstanding principal balance thereof.

(c) Each Loan Certificate shall bear interest at a per annum rate equal to the Applicable Rate on the unpaid principal amount thereof from time to time outstanding from and including the date thereof until such principal is paid in full. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued interest on each Loan Certificate shall be payable on each Payment Date and on the date such Loan Certificate is paid in full.

Notwithstanding the foregoing, each Loan Certificate shall bear interest at the Overdue Rate on any part of the principal amount and, to the extent permitted by Applicable Law, interest and other amounts due thereunder, not paid when due (whether at stated maturity, by acceleration or otherwise), for the period the same is past due, payable on demand by the Holder thereof. If the Sublease is renewed pursuant to Section 14(d)(i) of the Sublease or a Successor Sublease is entered into pursuant to Section 14(d)(ii) of the Sublease, the Applicable Rate shall be reset to the Reset Interest Rate on the Reset Date in accordance with Section 2.11. The Applicable Rate is also subject to reset as provided in Section 2.13.

(d) The Loan Certificates shall be executed on behalf of the Trustee by one of the authorized officers or representatives of the Trustee. Loan Certificates bearing the signatures of individuals who were at any time the proper officers or representatives of the Trustee shall bind the Trustee, notwithstanding that such individuals or any of them have ceased to hold such offices or such representative capacities prior to the execution and delivery of such Loan Certificates or did not hold such offices or such representative capacities at the respective dates of such Loan Certificates. The Trustee shall execute and deliver Loan Certificates on the Delivery Date (not, however, exceeding in aggregate original principal amount the amount specified in Section 2.01(a) hereof, as the case may be).

SECTION 2.02. **Payments from Collateral Only**. Except as expressly provided herein or in the other Operative Documents, all payments of principal and interest on the Loan Certificates, and all payments of any other amounts due hereunder or under the Loan Certificates will be made solely from the income and proceeds from the Collateral and only to the extent that the Trustee shall have sufficient income or proceeds therefrom to enable the Trustee to make such payments in accordance with the terms hereof. Each Holder, by its acceptance of its Loan Certificate, agrees that, except as expressly provided herein, it will look solely to the income and the proceeds from the Collateral to the extent available for distribution as herein provided. Except as provided in Section 4.06 or 4.07, neither the Equity Investor nor any provider of a Transferee Guaranty will be personally liable for any amounts payable or any liability under this Agreement or the Loan Certificates; provided, however, that nothing contained herein shall derogate from any liability of the Equity Investor that may arise under the Participation Agreement to the extent expressly provided therein. Neither the Trust Company nor any officer or employee of the Trustee will be personally liable for any amounts payable or any liability under this Agreement or the Loan Certificates, except, in the case of the Trust Company, to the extent of claims arising out of gross negligence or willful misconduct and except as otherwise expressly provided herein or in any other Operative Document; provided, however, that nothing contained herein shall derogate from any liability of the Trust or the Trust Company that may arise under this Agreement or the Participation Agreement.

SECTION 2.03. **Loan Certificates Equally and Ratably Secured**. All Loan Certificates will be equally and ratably secured hereunder, without preference, priority or distinction on account of the date or dates or the actual time or times of the issue of such Loan

Certificates, so that all Loan Certificates will have the same rights and preferences under and by virtue of this Agreement.

SECTION 2.04. Method of Payment. (a) The principal of and interest on each Loan Certificate and other amounts due hereunder or under such Loan Certificate will be payable in Dollars in immediately available funds prior to 1:00 p.m., New York time, on the due date thereof, to the Lender's account as set forth in Schedule I to the Participation Agreement or such other account in the United States as the Lender may specify in writing, with at least 30 days' notice to the Trustee and Sublessee; provided that the payment to such other account does not increase the Sublessee's obligation under the Participation Agreement to indemnify for Taxes. If any sum payable hereunder or under a Loan Certificate falls due on a day which is not a Business Day, then such sum shall be payable on the next succeeding Business Day and, if paid on such Business Day, the payment thereof shall be without penalty or interest or other adjustment.

(b) If any amount of principal or interest payable with respect to the Loan Certificates becomes subject to any withholding Tax under Applicable Law, the Trustee shall withhold such Tax and shall pay to the Lender such additional amounts so that the net amount actually received by the Lender, after reduction for such withholding Tax, shall be equal to the full amount of principal and interest otherwise due and payable hereunder; provided, however, that notwithstanding the foregoing, the Trustee shall be required to pay such additional amounts only if and to the extent that (i) the Sublessee is required to indemnify the Lender for such withholding amounts under Section 16(c) of the Participation Agreement and (ii) the Sublessee has not paid such amounts within three days after notice of nonpayment.

SECTION 2.05 Application of Payments. Each payment made on any Loan Certificate will be applied, first, to the payment of interest on overdue interest (to the extent permitted by Applicable Law) at the Overdue Rate on such Loan Certificate to the date of such payment, second, to the payment of interest on overdue principal at the Overdue Rate on such Loan Certificate to the date of such payment, third, to the payment of accrued interest on such Loan Certificate to the date of such payment, fourth, to the payment of principal past due on such Loan Certificate, and fifth, to the payment of the principal amount of such Loan Certificate then due.

SECTION 2.06. Persons Deemed Owners. Prior to the due presentment for registration of transfer of any Loan Certificate, the Trustee and the Lender may deem and treat the Person in whose name any Loan Certificate is registered on the Loan Certificate Register (as defined below) as the absolute owner and holder of such Loan Certificate for the purpose of receiving payment of all amounts payable with respect to such Loan Certificate and for all other purposes whether or not such Loan Certificate is overdue, and neither the Trustee nor the Lender shall be affected by any notice to the contrary.

SECTION 2.07. Registration; Transfer and Exchange of Loan Certificates. The Trustee will maintain at its principal office a register for the purpose of

registering the Loan Certificates and registering transfers and exchanges of Loan Certificates (the "Loan Certificate Register"). Upon surrender for transfer or exchange of any Loan Certificate at the principal office of the Trustee, the Trustee will execute and deliver (in the case of any such transfer, in the name of the designated transferee or transferees or, in the case of an exchange, in the name of the Holder thereof), one or more new Loan Certificates of the same series of a like aggregate original principal amount and maturity date and in a minimum denomination of $500,000 each (provided that there shall be no more than three Holders at any one time). The Trustee will not be required to register or exchange any surrendered Loan Certificate as above provided during the 15-day period preceding any Payment Date. Every Loan Certificate presented or surrendered for transfer or exchange will (if so required by the Trustee) be duly endorsed (or be accompanied by a written instrument of transfer in form satisfactory to the Trustee) and duly executed by the Holder thereof or his attorney duly authorized in writing. Promptly after registration of the transfer of any Loan Certificate as above provided, the Trustee will give notice thereof to the Equity Investor and the Sublessee, specifying the name and notice address of the transferee or transferees. Any Loan Certificate issued in a registration of transfer or exchange pursuant to this Section 2.07 and Section 2.08 will carry the same rights to interest (unpaid and to accrue) carried by the Loan Certificate so transferred or exchanged so that there will not be any loss or gain of interest on such Loan Certificate. With any such registration of transfer or exchange, the Trustee shall mark on each new Loan Certificate (i) the dates to which principal and interest have been paid on the old Loan Certificate, (ii) all payments and prepayments of principal previously made on such old Loan Certificate which are allocable to such new Loan Certificate and (iii) the amount of each installment payment payable on such new Loan Certificate. By its acceptance thereof, each Holder of a Loan Certificate is deemed to make all of the representations, warranties and agreements contained in Section 8 (mutatis mutandis), and to be bound by Section 15(b), of the Participation Agreement. Notwithstanding anything to the contrary herein, prior to the Reset Date, the Trustee shall not register a transfer of a Loan Certificate to more than one Person (not counting Affiliates of the Lender); provided, however, that nothing herein shall restrict the right of a Holder to enter into participation agreements with respect to its interests in a Loan Certificate so long as such Holder remains the registered Holder of such Loan Certificate.

SECTION 2.08. Lost, Stolen, Destroyed or Mutilated Loan Certificates. If any Loan Certificate has been mutilated, lost, stolen or destroyed, the Trustee will execute and deliver a new Loan Certificate of the same series, of like date and tenor in exchange and substitution for, and upon cancellation of, such mutilated Loan Certificate or in lieu of and in substitution for such lost, stolen or destroyed Loan Certificate; provided, however, that the Trustee will so execute and deliver only if the Holder thereof (a) has paid the reasonable expenses and charges of the Trustee in connection therewith and, in the case of a lost, stolen or destroyed Loan Certificate, (b) has filed with the Trustee evidence satisfactory to it that such Loan Certificate was lost, stolen or destroyed, and (c) has furnished to the Trustee an indemnity satisfactory to it. If any such Loan Certificate has matured or is otherwise subject to payment, instead of issuing a new Loan Certificate the Trustee may pay the same without surrender thereof.

SECTION 2.09. Payment of Expenses on Transfer. Upon the issuance of a new Loan Certificate or Loan Certificates pursuant to Section 2.07 or 2.08, the Trustee shall require from the party requesting such a new Loan Certificate or Loan Certificates, without any right of reimbursement under any Operative Document, except as otherwise provided in the Operative Documents, payment of a sum to reimburse the Trustee for, or to provide funds for, the payment of any tax or other governmental charge in connection therewith or any charges and expenses connected with such tax or other governmental charge paid or payable by the Trustee but no service charge shall be payable.

SECTION 2.10. Prepayments.

(a) The Loan Certificates of a particular series shall be prepaid in whole or in part, together with accrued interest thereon to the date of prepayment, all other amounts then payable hereunder, under such Loan Certificates and under any other Operative Document (and, in connection therewith, immediately available funds in Dollars shall be deposited in the account of the Lender at the place and by the time and otherwise in the manner provided in Section 2.04, in an amount equal to the principal amount of the Loan Certificates to be prepaid together with accrued and unpaid interest thereon to the date fixed for such prepayment and all such other sums then due and payable) as follows:

(i) in whole, upon an Early Termination Event with respect to the Equipment Lot associated with such series; or

(ii) in whole, on the Basic Term Expiration Date with respect to Equipment of the Lot associated with such series unless the Sublease is renewed with respect to such Equipment Lot for the Sublease Renewal Term pursuant to Section 14(d)(i) of the Sublease or a Successor Sublease with respect to such Equipment Lot shall have been entered into on such date pursuant to Section 14(d)(ii) of the Sublease and either the Lender continues to be the Holder of the Loan Certificates of such series or a Successor Lender or the Sublessee shall have purchased the Loan Certificates of such series from the Lender pursuant to Section 2.11 and Section 14(d)(i)(A) of the Sublease shall have been complied with; or

(iii) in part, on any Loss Payment Date with respect to Equipment of the Equipment Lot associated with such series in an amount equal to the principal amount of the Loan Certificates of such series outstanding on such date multiplied by a fraction, the numerator of which shall equal the Equipment Value of the Items of Equipment with respect to which the related Stipulated Loss Value or Fair Market Sales Value is being paid, and the denominator of which shall equal the aggregate Equipment Value of all Items of Equipment in such Equipment Lot of such series subject to the Sublease immediately prior to the related Loss Payment Date (and the amount of principal and interest payable on the outstanding Loan Certificates of such series shall be reduced by an amount obtained by

multiplying the foregoing fraction to the amount of principal and interest that otherwise would have been payable on such Loan Certificates absent such prepayment in part); or

(iv) in whole, on any date in connection with a refinancing of the Loan Certificates of such series as provided in Section 20 of the Participation Agreement.

(b) The Trustee shall give a notice of prepayment (subject to revocation as provided below) under this Section to the Lender promptly after the Trustee shall have received from the Sublessee notice of an Early Termination Event or of a refinancing under Section 20 of the Participation Agreement, or promptly after the Trustee shall have received notice from the Sublessee or the Sublessor of an event giving rise to a prepayment pursuant to clause (ii) or (iii) of Section 2.10 (a), as the case may be. Any such notice of prepayment shall specify (w) in the case of a partial prepayment, the principal amount of the Loan Certificates to be prepaid on the prepayment date, (x) that it is a notice of prepayment given pursuant to this Section 2.10(b), (y) the date fixed for such prepayment, and (z) the subparagraph of paragraph (a) hereof (or the clause of the term "Early Termination Event", in the case of a Section 2.10(a)(i) prepayment), under which such prepayment is to be made. Any such notice given hereunder may be revoked to the same extent as the corresponding notice under the Sublease and/or the Participation Agreement, as the case may be.

(c) Except as provided in Section 2.13 and Section 22 of the Participation Agreement, any prepayment under Section 2.10(a) or otherwise shall be made without premium or penalty of any kind and in accordance with the provisions of Section 3.02(a) and the Trustee shall not be liable for any Breakage Loss or other costs and expenses incurred by the Lender as a result of such prepayment.

SECTION 2.11. Reset Interest Rate. (a) If the Sublease is renewed pursuant to Section 14(d)(i) of the Sublease or a Successor Sublease is entered into on the Basic Term Expiration Date pursuant to Section 14(d)(ii) of the Sublease, in each case with respect to an Equipment Lot, the Applicable Rate on the Loan Certificates of the applicable series associated with such Equipment Lot shall be reset to the Reset Interest Rate in accordance with this Section 2.11, and the Trustee and the Lender (to the extent the Lender continues to hold the Loan Certificates), or the Successor Lender or the Sublessee (to the extent either of such entities purchases the Loan Certificates), shall enter into such amendment, in form and substance reasonably satisfactory to each of such parties thereto, of this Loan Agreement and the Loan Certificates as may be necessary to reflect such Reset Interest Rate.

(b) Unless the Sublessee has given notice that it intends to exercise the Purchase Option under Section 14(a) of the Sublease with respect to an Equipment Lot, upon request of the Trustee or Sublessee, the Lender may, but shall not be required to, not later than 30 days following its receipt of such request, notify the Sublessee, the Trustee and the Equity Investor of the Lender's proposed Quoted Rate. If the Lender shall propose a Quoted Rate, then the Equity Investor shall

have the right, exercisable within five Business Days of notice from the Lender of such Quoted Rate, to reject the Quoted Rate and request the Banker to set the Auction Rate pursuant to Section 2.11(d) below.

(c) If the Lender proposes a Quoted Rate in accordance with Section 2.11(b) above and the proposed Quoted Rate is not rejected by the Equity Investor in accordance with Section 2.11(b) above, then in connection with the renewal of the Sublease pursuant to Section 14(d)(i) of the Sublease or the Trustee entering into a Successor Sublease pursuant to Section 14(d)(ii) of the Sublease, in each case with respect to an Equipment Lot, as the case may be, the Quoted Rate shall be the Reset Interest Rate and the Applicable Rate on the Loan Certificates of the applicable series associated with such Equipment Lot shall be reset to the Reset Interest Rate on the Reset Date.

(d) If the Lender has not notified the Trustee and the Equity Investor of the Lender's proposed Quoted Rate within 30 days of its receipt of a request therefor from the Trustee or the Sublessee, or if the Equity Investor rejects such interest rate in accordance with Section 2.11(b) above, the Banker shall commence reasonable efforts to set the Auction Rate, and unless (i) the Successor Lender purchases the Loan Certificates of the applicable series and/or (ii) the Sublessee purchases the Loan Certificates of the applicable series, in each case as provided in Section 14(d) of the Sublease and in accordance with this Section 2.11, the Loan Certificates of the applicable series shall be paid in full pursuant to Section 2.10.

(e) If the Banker has set an Auction Rate on or before the Basic Term Expiration Date, then in connection with the renewal of the Sublease pursuant to Section 14(d)(i) of the Sublease or the Trustee entering into a Successor Sublease pursuant to Section 14(d)(ii) of the Sublease, the Successor Lender shall purchase, and the Lender agrees to sell to such Successor Lender, all of the Lender's right, title and interest in and to the Loan Certificates of the applicable series on the Basic Term Expiration Date for a purchase price equal to the outstanding principal amount of the Loan Certificates plus accrued and unpaid interest thereon to the date of purchase (taking into account any interest paid on the Basic Term Expiration Date). Upon receipt in immediately available funds by the Lender of the foregoing amounts and all other amounts due and payable to the Lender under the Operative Documents on the Basic Term Expiration Date, the Lender shall deliver the Loan Certificates for transfer to the Successor Lender pursuant to the provisions hereof. In connection with such transfer to the Successor Lender, the Auction Rate shall be the Reset Interest Rate and the Applicable Rate on the Loan Certificates shall be reset to the Reset Interest Rate on the Reset Date.

(f) If in connection with the Trustee entering into a Successor Sublease the Lender does not propose a Quoted Rate or the proposed Quoted Rate has been rejected by the Equity Investor and either (A) the Banker is unable to set an Auction Rate on or before the Basic Term Expiration Date or (B) the Successor Lender shall fail to purchase the Loan Certificates of the applicable series on the Basic Term Expiration Date, then pursuant to Section 14(d)(ii)(B) of the

Sublease the Sublessee shall purchase (or shall cause its designee to purchase), and the Lender agrees to sell to the Sublessee (or such designee), all of the Lender's right, title and interest in and to such Loan Certificates on the Basic Term Expiration Date for a purchase price equal to the outstanding principal amount of the Loan Certificates on the Basic Term Expiration Date plus interest accrued and unpaid thereon to the date of such purchase (taking into account interest, if any, paid on such date). Upon receipt in immediately available funds by the Lender of the foregoing amounts and all other amounts due and payable to the Lender under the Operative Documents on the date of such purchase, the Lender shall deliver the Loan Certificates for transfer to the Sublessee pursuant to the provisions hereof. If Sublessee purchases the Loan Certificates pursuant to this Section 2.11(f), then the Reset Interest Rate on the Loan Certificates on the Reset Date shall be equal to the Auction Rate.

(g) If in connection with a renewal of the Sublease, the Sublessee is unable to arrange for (A) a Quoted Rate from the Lender acceptable to the Equity Investor, (B) an Auction Rate from the Banker or (C) a Successor Lender pursuant to which either the Lender will retain (in accordance with Section 2.11(c) above) or a Successor Lender will purchase (in accordance with Section 2.11(e) above) 100% of the outstanding principal amount of the Loan Certificates of the applicable series on the Basic Term Expiration Date, the Sublessee shall on the Basic Term Expiration Date in the manner set forth in Section 2.11 (f) above, purchase up to 49% of the principal amount of the Loan Certificates of such series then outstanding (provided all such Loan Certificates are secured on a pari passu basis and that the Sublessee has arranged for the Lender to retain or a Successor Lender to purchase the remaining balance of outstanding Loan Certificates), and in that event the Lender agrees to sell to the Sublessee (or such designee) all of its right, title and interest in and to such Loan Certificates the Sublessee has agreed to purchase (not to exceed 49% of the then outstanding amount of all such Loan Certificates) on the Basic Term Expiration Date in the manner set forth in Section 2.11(f) above and, unless the Lender has agreed to retain the remaining balance of the Loan Certificates bearing interest at a new Quoted Rate in the manner set forth in Section 2.11(c) above, simultaneously sell the remaining balance of such Loan Certificate to a Successor Lender in the manner set forth in Section 2.11(e) above. If the Sublessee purchases Loan Certificates pursuant to this Section 2.11(g), then the interest rate on all Loan Certificates of the applicable series on the Reset Date shall be the Quoted Rate or the Auction Rate, as the case may be.

(h) Upon the commencement of a Successor Sublease, all references herein to the "Sublease" shall be deemed to be references to the Successor Sublease, all references herein to the "Sublessee" shall be deemed to be references to the Successor Sublessee and no previous exercise by the Trustee of its rights under Section 4.06(a) shall be taken into account for the purposes of Section 4.06(a) thereafter.

(i) Notwithstanding any of the foregoing provisions, the Lender shall not be obligated to propose a Quoted Rate in connection with the renewal of the Sublease pursuant to

Section 14(d)(i) of the Sublease or any proposed Successor Sublease pursuant to Section 14(d)(ii) of the Sublease.

SECTION 2.12. **Illegality.** If, as a result of a change in law after the Delivery Date, it shall become unlawful for any Holder to make, maintain or fund the credit evidenced by its Loan Certificate in the manner contemplated by the Operative Documents, then such Holder shall take all reasonable steps to avoid such illegality; provided such Holder shall not be obligated to take any steps that such Holder certifies in good faith will, in its reasonable opinion, cause it to incur any cost or expense unless the Trustee or the Sublessee shall have compensated such Holder with respect to such cost or expense. In the event any such illegality cannot be avoided within 30 days after such Holder's notice thereof to the Trustee and the Sublessee (or such shorter period as may be required by law), the obligations represented by the Loan Certificates held by such Holder shall be acquired by a Person unrelated to the Sublessee as required by, and in accordance with the terms of, Section 21(n) of the Participation Agreement or, subject to the conditions set forth in Section 20 of the Participation Agreement, shall be refinanced as provided in, and in accordance with, Section 20 of the Participation Agreement.

SECTION 2.13 Substitution of Payment Undertaking Agreement; Breakage Loss; Repricing. In connection with the replacement of the Payment Undertaking Agreement with Acceptable Substitute Credit Protection pursuant to Section 22(b) of the Participation Agreement, the Lender may, with the prior written consent of the Equity Investor and the Sublessee (which consent may be withheld in the Equity Investor's and the Sublessee's good faith discretion), reset the Applicable Rate to an interest rate that is acceptable to the Lender in its reasonable discretion under the circumstances prevalent at the time. If, following such replacement, the Loan Certificates are prepaid pursuant to Section 2.10(a)(iv) or purchased by the Trustee or the Equity Investor pursuant to Section 4.07 and such Lender continues to hold the Loan Certificates at the time of such prepayment, the original Lender (and any subsequent Holder that is an Affiliate of the original Lender, but not any other subsequent Holder) shall also be entitled to any Breakage Loss incurred by it in connection with such prepayment.

ARTICLE III

RECEIPT AND DISTRIBUTION OF AMOUNTS FROM COLLATERAL

SECTION 3.01. **Application of Rent.** (a) Except as provided in Section 3.02, each installment of Basic Rent (whether paid by the Sublessee, or by the Equity Investor or the Trustee pursuant to Section 4.06 or by the Payment Undertaker), interest accrued thereon and any payment of interest on overdue installments of Basic Rent will be applied in the following order of priority:

first, so much of such amount as is required to pay in full pursuant to Sections 2.04 and 2.05 the aggregate principal and accrued interest (as well as any interest on overdue principal and, to the extent permitted by Applicable Law, overdue interest at the Overdue Rate) then due and payable on the Loan Certificates then outstanding will be applied to such Loan Certificates ratably, without priority of one over the other, in the proportion that the amount of such payment so payable under each such Loan Certificate bears to the aggregate amount of the payment so payable under all such Loan Certificates; and

second, the balance, if any, of such payment remaining will be distributed to the Trustee for distribution in accordance with the terms of the Trust Agreement, provided, however, that if at the time of receipt by the Lender of any such amount there has occurred and is continuing a Loan Default, for which notice of default has been given (if notice is required for such Loan Default to become a Loan Event of Default), or a Loan Event of Default such amount will not be distributed to the Trustee, and instead will be held by the Lender as part of the Collateral (and invested by the Lender in Permitted Investments selected by the Lender), until the first to occur of the following: (i) such Loan Default or Loan Event of Default is not continuing, (ii) such amount has been held by the Lender for 180 days, or (iii) an event described in clauses (a) or (b) of Section 3.02 has occurred. If an event described in clause (i) or (ii) first occurs, the amount withheld plus net earnings thereon will be distributed to the Trustee for distribution in accordance with the terms of the Trust Agreement. If an event described in clause (iii) first occurs, the amount withheld plus net earnings will be distributed in accordance with Section 3.02.

(b) If, as a result of any failure of the Sublessee to pay Basic Rent on any date when a payment thereof is due, the Lender has not received an amount sufficient to enable it to make the required payments pursuant to clause "first" of subsection (a), the Lender, except as otherwise provided in Section 3.02 in connection with a Loan Event of Default, will apply any amount of the character referred to in Section 3.04 then held by it or thereafter received by it (other than payments representing Excepted Property) to the extent necessary to enable the Lender to make the payments then due pursuant to such clause "first".

SECTION 3.02. Application Upon Prepayment or Loan Event of Default. (a) Notwithstanding Sections 2.05, 3.01 or 3.04, but except as otherwise provided in Section 3.05, any amounts received by the Lender (a) as the result of an event requiring prepayment under Section 2.10 or (b) after the Lender has declared the Loan Certificates due and payable, (or the Loan Certificates shall otherwise become due and payable) or has given a notice of enforcement of remedies following a Loan Event of Default, will be applied in the following order of priority:

first, so much of such amounts as is required to reimburse the Lender for all amounts secured pursuant to the Agreement (other than those amounts specified in clause second below), including amounts payable to the Lender pursuant to the indemnification provisions of Section 16 of the Participation Agreement or of any other Operative Document, and remaining unpaid shall be distributed to the Lender;

second, so much of such amounts as is required to pay in full the aggregate principal and accrued interest (as well as any interest on overdue principal and, to the extent permitted by Applicable Law, overdue interest at the Overdue Rate) then due and payable (or unpaid) on the Loan Certificates then outstanding and entitled to be prepaid under Section 2.10 or accelerated under Section 4.02, as the case may be, will be distributed to the Holders and applied pursuant to Sections 2.04 and 2.05 to such Loan Certificates ratably, without priority of one over the other, in the proportion that the amount of such payment so payable under each such Loan Certificate bears to the aggregate amount of the payment so payable under all such Loan Certificates; and

third, the balance, if any, of such payments remaining will be distributed to the Trustee for distribution in accordance with the terms of the Trust Agreement free and clear of the Liens hereof.

SECTION 3.03. Application of Amounts Received With Respect to Damage, Etc. Except as provided in Section 3.02, any amounts received by the Lender directly or indirectly from any insurer, governmental authority or other Person with respect to any loss, condemnation, confiscation, theft or seizure of, or requisition of title to or use of, or damage to any Item of Equipment or any Part thereof not resulting in a prepayment pursuant to Section 2.10 will be applied by the Lender in accordance with the provisions of the Sublease. Any amounts received by the Lender directly or indirectly from any insurer, governmental authority or other Person with respect to any Event of Loss resulting in a prepayment pursuant to Section 2.10 shall be credited by the Lender against the amounts required to be prepaid by the Trustee pursuant to Section 2.10(a)(i) (in the case of a prepayment described in clause (b) of the definition of "Early Termination Event") or 2.10(a)(iii), and the balance, if any, except as otherwise provided in the preceding sentence, shall be paid to the Trustee.

SECTION 3.04. Distribution of Certain Other Payments.

(a) Any amounts received by the Lender for which provision as to the application thereof is not made herein but is made in an Operative Document will be applied in accordance with the terms of such Operative Document.

(b) Any amounts received by the Lender for which no provision as to the application thereof is made in any Operative Document will be retained by the Lender as security

for the obligations secured hereunder, and any amounts received by the Lender with respect to the Collateral to the extent received or realized at any time after payment in full of the principal of and interest on the Loan Certificates, and all other amounts due and payable to the Lender which this Agreement by its terms secures, as well as any other amounts remaining as part of the Collateral after such payment in full, will be remitted to the Trustee for distribution in accordance with the terms of the Trust Agreement.

SECTION 3.05. **Excepted Property**. Notwithstanding any provision of this Agreement, any payments representing Excepted Property received or held by the Lender will be promptly distributed by the Lender to the Person or Persons entitled thereto.

SECTION 3.06. **Payments to the Equity Investor**. Unless otherwise directed in writing by the Trustee, the Lender will distribute all amounts (other than amounts payable to the Trust Company) from time to time distributable by the Lender to the Trustee in accordance with the provisions hereof to the Equity Investor by wire transfer of immediately available funds to the account of the Equity Investor described in Schedule I to the Participation Agreement.

SECTION 3.07. **Investment of Amounts Held by Lender**.

(a) Any amounts held by the Lender as assignee of the Trustee's rights to hold moneys for security pursuant to Section 9, 10 or 20 of the Sublease shall be held in accordance with the terms of such Section, and the Lender hereby agrees to perform the duties of the Trustee under such Section.

(b) Any amounts held by the Lender pursuant to the proviso to clause second of Section 3.01 hereof, or pursuant to Section 9, 10 or 20 of the Sublease shall be invested by the Lender or its designee from time to time in Permitted Investments selected by the Lender in the case of Section 3.01 and otherwise by the Trustee (or, to the extent contemplated by said Section 20, the Sublessee) if such investments are reasonably available. Unless otherwise expressly provided in this Agreement, any income realized as a result of any such investment and any payments by the Sublessee pursuant to the Sublease in respect of any losses or expenses, net of the Lender's reasonable fees and expenses in making such investment, shall be held and applied by the Lender in the same manner as the principal amount of such investment is to be applied and any losses, net of earnings and such reasonable fees and expenses, shall be charged against the principal amount invested. The Lender shall not be liable for any loss resulting from any investment required to be made by it under this Agreement other than by reason of its willful misconduct or gross negligence or simple negligence in receiving, handling or disbursing funds, and any such investment may be sold (without regard to its maturity) by the Lender without instructions whenever the Lender reasonably believes such sale is necessary to make a distribution required by this Agreement.

ARTICLE IV

EVENTS OF DEFAULT; REMEDIES

SECTION 4.01. **Loan Event of Default**. Each of the following events will constitute a Loan Event of Default so long as the same shall be continuing:

(a) any Event of Default (except any such Event of Default arising out of the failure of the Sublessee to pay any amount of Excepted Property) shall have occurred;

(b) the failure of the Trustee to pay when due any payment of principal of or interest on any Loan Certificate or any other amount due hereunder or under any Loan Certificate (in each case not arising out of, or otherwise attributable to, a Default or an Event of Default) and such failure has continued unremedied for five Business Days after notice of nonpayment in the case of principal and interest and otherwise for 30 days after notice of nonpayment;

(c) any representation or warranty expressly made by the Equity Investor or any guarantor of any Equity Investor or the Trustee herein, in the Participation Agreement or in any other Operative Document (not caused by a Default or Event of Default) proves, in any respect then material to the rights of the Lender, to have been incorrect as of the date when made and continues to be materially adverse to the rights of the Lender and, if correctable, is not corrected within 30 days after the Trustee and the Equity Investor shall have received notice thereof;

(d) the Equity Investor or any guarantor of the Equity Investor's obligations under the Operative Documents fails to perform or observe any material covenant or agreement on its part contained in the Participation Agreement or any other Operative Document (other than the Tax Indemnification Agreement), or the Trustee fails to perform or observe any other material covenant or agreement on its part contained in this Agreement, the Loan Certificates or any other Operative Document (not caused by a Default or an Event of Default) and, in each case, such failure continues unremedied for a period of 30 days from receipt by the Trustee and the Equity Investor of notice from the Lender; provided, however, that, if such failure is other than the payment of money and cannot with reasonable diligence be corrected within such 30-day period, such failure will not constitute a Loan Event of Default so long as the party failing to perform institutes curative action within such period and diligently pursues such action to completion (but in no event shall the total period permitted to cure such default extend beyond 180 days from receipt of such notice);

(e) the Equity Investor or any guarantor of the Equity Investor's obligations under the Operative Documents, the Trust or the Trustee (but not the Trust Company) shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code or any other federal, state or foreign bankruptcy, insolvency or similar law,

(ii) consent to the institution of, or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for the Equity Investor, or any guarantor of the Equity Investor's obligations under the Operative Documents, the Trust or the Trustee (but not the Trust Company) or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, (vi) become unable, admit in writing its inability or fail generally to pay its debts as they become due, or (vii) take corporate action for the purpose of effecting any of the foregoing; or

(f) an involuntary proceeding is commenced or an involuntary petition is filed in a court of competent jurisdiction seeking (i) relief in respect of the Equity Investor or any guarantor of the Equity Investor's obligations under the Operative Documents, the Trust or the Trustee (but not the Trust Company) or of a substantial part of the property of any thereof, under Title 11 of the United States Code or any other federal, state or foreign bankruptcy, insolvency or similar law, (ii) the appointment of a receiver, trustee, custodian, sequestrator or similar official for the Equity Investor, or any guarantor of the Equity Investor's obligations under the Operative Documents, the Trust or the Trustee (but not the Trust Company) or for a substantial part of the property of any thereof or (iii) the winding-up or liquidation of the Equity Investor or any guarantor of the Equity Investor's obligations under the Operative Documents, the Trust or the Trustee (but not the Trust Company); and such proceeding or petition continues undismissed for 60 days or an order or decree approving or ordering any of the foregoing continues unstayed and in effect for 60 days.

SECTION 4.02. Acceleration of Loan Certificates.

If a Loan Event of Default described in Sections 4.01(a) (resulting from an Event of Default under Section 16(d), (e), (f), (g) or (h) of the Sublease), 4.01(e) or 4.01(f) shall have occurred, then the unpaid principal amount of the Loan Certificates, together with accrued and unpaid interest thereon and all other amounts due thereunder and hereunder, shall immediately and without further act become due and payable, without presentment, demand, protest or notice, all of which are hereby waived.

If a Loan Event of Default referred to in Section 4.01(a) (other than resulting from an Event of Default under Section 16(d), (e), (f), (g) or (h) of the Sublease), 4.01(b), 4.01(c), or 4.01(d) shall have occurred and be continuing, then the Lender may at any time, by notice to the Trustee and the Equity Investor declare all the Loan Certificates outstanding to be due and payable, whereupon the unpaid principal amount of all the Loan Certificates outstanding, together with accrued and unpaid interest thereon and all other amounts due thereunder and hereunder, shall immediately and without further act become due and payable, without presentment, demand, protest or notice, all of which are hereby waived.

SECTION 4.03. **The Lender's Other Rights**. Subject to Sections 4.06, 4.07 and 5.01 hereof, the Trustee agrees that when any Loan Event of Default has occurred and is continuing, the Lender may, without limitation of all other rights and remedies available at law or in equity in such event, exercise any one or more or all, and in any order, of the following remedies, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies, but that each and every remedy is cumulative and is in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) the Lender personally, or by agents or attorneys, will have the right (subject to compliance with Applicable Law) to take possession of all or any part of the Collateral, and having and holding the same may use, operate, manage and control the Collateral and conduct the business thereof and collect and receive all earnings, revenues, rents, issues, proceeds and income of the Collateral and every part thereof, all for the sole purpose of providing for the payment of amounts due hereunder and under the Loan Certificates and, for such purpose, may maintain, repair and renew the Collateral and make replacements, alterations, additions and improvements thereto or remove and dispose of any portion of the Collateral and may otherwise exercise any and all of the rights and powers of the Trustee in respect thereof;

(b) the Lender may, if at the time such action may be lawful and always subject to compliance with Applicable Law, either with or without taking possession, and either before or after taking possession, and without instituting any legal proceedings whatsoever, sell and dispose of the Collateral, or any part thereof, or interest therein, at any private sale or public auction to the highest bidder, with or without demand, advertisement or notice (except as herein required or as may be required by law) of the date, time and place of sale, and any adjournment thereof in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Lender may determine, and at any place (whether or not it be the location of the Collateral or any part thereof). It is agreed that ten days' notice to the Equity Investor, the Trustee and the Head Lessor of the date, time and place (and terms, in the case of a private sale) of any proposed sale by the Lender of the Collateral or any part thereof or interest therein is reasonable. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further notice, and the Lender, the Payment Undertaker, the Equity Investor, the Trustee or any Holder may bid and become the purchaser at any such sale. The Lender shall be entitled to credit against the purchase price at any sale hereunder all or any part of the unpaid obligations owing to the Lender;

(c) the Lender may proceed to protect and enforce this Agreement and the Loan Certificates by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein or therein contained or in execution or aid of any power herein granted, or for foreclosure hereunder or thereunder, or for the appointment of a receiver or receivers for the Collateral or any part thereof, or for the recovery of judgment for the Loan Certificates or for the enforcement of any other proper, legal or equitable remedy available under Applicable Law;

(d) the Lender may proceed to exercise all rights, privileges and remedies of the Trustee under the Sublease and the other Operative Documents as assigned to the Lender (including with respect to any collateral provided by the Sublessee to secure its obligations under the Sublease, including the Equipment Pledge Agreement and the Payment Undertaking Pledge Agreement), and may exercise all such rights and remedies either in the name of the Lender or in the name of the Trustee for the use and benefit of the Lender.

Anything herein to the contrary notwithstanding, upon the occurrence and continuance of a Loan Event of Default arising directly or indirectly from or in any way attributable to an Event of Default, the Lender will not divest the Trustee of title to the Head Lease Rights unless the Lender has, to the extent it is then entitled to do so hereunder and is not then stayed or otherwise prevented from doing so by operation of law, commenced the exercise of one or more substantial remedies under the Sublease; provided that if the Lender is so stayed or otherwise prevented by operation of law from exercising such remedies, the Lender shall not so divest the Trustee until 90 days shall have elapsed from the date the Lender is so stayed or prevented. Notwithstanding anything else to the contrary, it is understood that nothing in the preceding sentence shall prohibit the Lender from exercising the Sublessor's rights in connection with the exercise of remedies under the Sublease with respect to Collateral not constituting Excepted Property securing the Sublessee's obligations under the Sublease (including, without limitation, the Payment Undertaking Agreement, the Payment Undertaking Agreement Policy or any Acceptable Substitute Credit Protection).

SECTION 4.04. **Delay or Omission Not a Waiver**. No delay or omission by the Lender in the exercise of any right or remedy accruing upon any Loan Event of Default will impair any such right or remedy or constitute a waiver of any Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Lender may be exercised from time to time, and as often as may be deemed expedient, by the Lender.

SECTION 4.05. **Restoration of Rights and Remedies**. If the Lender has instituted any proceeding to enforce any right, power or remedy under this Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Lender, then the Trustee and the Sublessee will, subject to any determination in such proceeding, be restored to their former positions hereunder and all rights, remedies and powers of the Lender will continue as if no such proceeding has been instituted.

SECTION 4.06. **Right To Cure Certain Events of Default**. (a) If there is a failure of payment of Basic Rent under the Sublease when the same shall have become due, and if such failure does not constitute the third consecutive failure under the Sublease cured by the Trustee or the Equity Investor pursuant to this subsection (a), or the sixth cumulative failure under the Sublease cured by the Trustee or the Equity Investor pursuant to this subsection (a), then the Equity Investor or the Trustee may (but need not) pay to the Lender, at any time prior to the

expiration of the seventh day following the receipt by the Equity Investor of notice of the occurrence of an Event of Default in respect of such failure, an amount equal to the principal of and interest on the Loan Certificates payable (otherwise than by declaration of default and acceleration) on such Payment Date together with interest due thereon on account of the delayed payment thereof, and shall hold the Lender harmless from any increased costs (including costs relative to the accounting treatment resulting from the Sublessee's failure to pay Basic Rent) and such payment by the Equity Investor or the Trustee will be deemed (for all purposes of this Agreement) to have cured any Loan Event of Default which arose or would have arisen from such failure of payment (but any such payment performance shall not relieve the Sublessee of its duty to pay all Rent and perform its obligations pursuant to the Sublease).

(b) If an Event of Default (other than a failure to pay Basic Rent) has occurred and is continuing, then, so long as no other Loan Event of Default not caused by the Event of Default has occurred and is continuing, the Equity Investor or the Trustee may (but need not) perform such obligation that requires only the payment of money (it being understood that the procuring of insurance and maintenance of equipment are among the obligations that may be so cured) at any time prior to the seventh day following expiration of any applicable grace or cure period under the Sublease, and such payment by the Equity Investor or the Trustee will be deemed for all purposes of this Agreement to have cured any Loan Event of Default which arose or would have arisen from such failure (but any such payment performance shall not relieve the Sublessee of its duty to pay all Rent and perform its obligations pursuant to the Sublease); provided, however, that this subsection shall not apply, and no such payment of any obligation of the Sublessee by the Equity Investor or the Trustee shall be deemed to remedy or to have remedied any Event of Default for the purposes of this Agreement if, during the term of this Agreement, there shall have been expended by the Equity Investor or the Trustee pursuant to this subsection an aggregate amount in excess of $1,500,000.

(c) The Equity Investor or the Trustee, upon exercising its rights under subsection (a) or (b) above, will not obtain any Lien on any part of the Collateral on account of such payment nor will any claim of the Equity Investor or the Trustee against the Sublessee or any other party for the repayment thereof impair the prior right and security interest of the Lender in and to the Collateral. Upon such payment, the Equity Investor or the Trustee will be entitled, so long as no other Loan Default for which notice of default has been given (if notice is required for such Loan Default to become a Loan Event of Default) or Loan Event of Default shall have occurred and be continuing, to receive from the Sublessee the amount of such payment and the costs and expenses incurred in connection with such payment, together with interest thereon at the Overdue Rate, but neither the Equity Investor nor the Trustee will have any right to pursue any of the remedies under the Sublease other than the remedy of proceeding by appropriate court action to recover the same from the Sublessee or, if such amount was paid by the Sublessee to the Lender, from the Lender.

(d) Until the expiration of the period during which the Equity Investor and the Trustee are entitled to exercise rights under subsections (a) or (b) above with respect to any failure referred to therein, the Lender will not take or commence any action it would otherwise be entitled to take or commence as a result of such failure, whether under this Article or under the Sublease or otherwise except such action as may be necessary to preserve any cause of action.

(e) Neither the Trustee nor the Equity Investor shall have the right to cure any Event of Default (without the prior written consent of the Lender) except as set forth in this Section 4.06.

SECTION 4.07. **Purchase**. Any time after the Loan Certificates have been accelerated or the Lender shall have commenced the exercise of any remedy hereunder which seeks to divest the Trustee of any of its rights, title or interest in the Trust Estate or any part thereof, the Trustee may furnish a notice to the Lender accompanied by a written agreement of the Trustee or the Equity Investor to purchase or cause to be purchased, all of the Loan Certificates on a date not more than five Business Days subsequent to such notice from the Trustee for an amount in immediately available funds equal to the unpaid principal amount of the Loan Certificates, together with accrued interest thereon to the date of payment, in which case the Lender shall exercise no remedies during such five day period and such Loan Certificates shall be purchased on such date at such price. In the case of such a purchase by the Trustee or the Equity Investor, the Lender agrees that, upon receipt by it, on or before such date, of the amounts described above, together with all other amounts due and payable to the Lender under the Operative Documents, forthwith convey to the Trustee or the Equity Investor all of its rights, title and interest in and to the Collateral, this Agreement and the Loan Certificates held by it. Upon payment by the Trustee or the Equity Investor of such amounts and if the Trustee or the Equity Investor so requests, the Lender will, at the expense of the Trustee, comply with the terms of Section 2.07 to enable new Loan Certificates to be issued to the Trustee or the Equity Investor.

SECTION 4.08. **Covenants of Trustee.** The Trustee hereby covenants and agrees as follows:

(a) the Trustee will, subject to Section 2.02, duly and punctually pay the principal of, and interest on and other amounts due under the Loan Certificates and hereunder in accordance with the terms of the Loan Certificates and this Agreement and all amounts payable by it to the Lender and Holders under the Operative Documents;

(b) in the event an officer of the Trustee who has responsibility for the transactions contemplated hereunder and under the Participation Agreement shall have actual knowledge of a Loan Event of Default or Loan Default or an Event of Loss, the Trustee will give prompt written notice of such Loan Event of Default or Loan Default or Event of Loss to the Lender, the Sublessee and the Equity Investor; and

(c) the Trustee will furnish to the Lender, promptly upon its receipt thereof, true and correct duplicates or copies of all reports, notices, requests, demands, certificates, financial statements and other instruments furnished to the Trustee under the Operative Documents, to the extent that the same shall not have been or are not required to be furnished to the Lender pursuant to the Operative Documents.

ARTICLE V

THE TRUSTEE; THE LENDER AS AGENT; EXCEPTED RIGHTS

SECTION 5.01. **Liability of the Trustee Limited**. Except as otherwise specifically provided in the Participation Agreement, all and each of the representations, warranties, undertakings and agreements made in this Agreement on the part of the Trustee are made and intended not as personal representations, warranties, undertakings and agreements by or for the purpose or with the intention of binding the Trust Company personally, but are made and intended for the purpose of binding only the Trust, with all recourse being limited to the Collateral. This Agreement is executed and delivered by the Trustee solely in the exercise of the powers expressly conferred upon it under the Trust Agreement. Except as otherwise specifically provided in the Participation Agreement or any other Operative Document, no personal liability or responsibility is assumed by the Trust Company or the Trustee hereunder and no such liability or responsibility shall at any time be imposed on the Trust Company or the Trustee on account of any representation, warranty, undertaking or agreement hereunder of the Trust Company or the Trustee either express or implied, all such personal liability, if any, being expressly waived by the Lender and each Holder; *provided, however,* that nothing in this Section 5.01 shall be construed to limit the liability of the Trust Company (a) in its individual capacity as expressly set forth in any Operative Document, (b) in respect of the representations, warranties and agreements of the Trust Company in its individual capacity as expressly set forth in any Operative Document to which the Trust Company is a party, and (c) in its individual capacity and as the Trustee for the consequences of its own gross negligence or willful misconduct or the failure to use ordinary care in the administration of funds; and *provided, further,* that nothing herein contained (without limiting the application of Section 4.06 or the limitation of the exercise of remedies by Lender in the first sentence of Section 4.07) shall limit, restrict or impair the rights of the Lender to accelerate the maturity of the Loan Certificates upon a Loan Event of Default, to bring suit and obtain a judgment against the Trustee (provided execution thereof shall be limited to the Collateral and any proceeds in respect thereof) on the Loan Certificates or to exercise all rights and remedies in each case as and to the extent provided for under the Agreement or otherwise realize upon the Collateral.

SECTION 5.02. **Successor Trustee**. Each time a successor Trustee is appointed in accordance with the terms of the Trust Agreement and Participation Agreement, such successor Trustee, without further act, will succeed to all the rights, duties, immunities and obligations of its predecessor owner trustee hereunder and under the Operative Documents and the

predecessor owner trustee will be released from all further duties and obligations hereunder and under the Operative Documents, all without the necessity of any consent or approval by the Lender and without in any way altering the terms of this Agreement or such Operative Documents.

SECTION 5.03. **Appointment of the Lender as Attorney; Further Assurances**. Except with respect to Excepted Property and Excepted Rights, the Trustee constitutes the Lender the true and lawful attorney-in-fact of the Trustee, for the purpose of taking any action permitted by this Agreement in connection with the enforcement of the Lien of this Agreement, with full power (in the name of the Trustee) or otherwise) to ask, require, demand and receive any and all amounts and claims for amounts due or to become due under or arising out of the Operative Documents (to the extent that such moneys and claims constitute part of the Collateral), to endorse any check or other instrument or order in connection therewith and to file any claim or take any action or institute any proceeding to collect any portion of the Collateral. Upon the written request of the Lender (and upon receipt of the form of document so to be executed), the Trustee will duly execute and deliver any and all such further instruments and documents as may be necessary for the Lender to obtain on behalf of the Holders the full benefits of the Lien of this Agreement and of the rights and powers herein granted. Upon the written instructions of the Lender (which the Lender agrees shall be given upon the instructions of any Holder), the Trustee will execute and file or record any financing statement (and any continuation statement with respect to any such financing statement), any certificate of title or any other document necessary for the Lender to obtain the full benefits of the Lien of this Agreement and as may be specified in such instructions.

SECTION 5.04. **The Lender as Agent**. If at any time there are Holders other than AMBAC Investments Inc. ("AMBAC") other than under Section 4.07, AMBAC agrees that, for so long as it remains a Holder, AMBAC will act as the agent (the "Agent") of such other Holders in (i) collecting and distributing that portion of Basic Rent payable to the Lender and such other Holders, (ii) holding, on behalf of such other Holders, the Collateral, (iii) obtaining at the request of the Trustee or the Sublessee any "consent of the Lender" required under any of the Operative Documents and (iv) for all other purposes of this Agreement. As Agent, AMBAC shall have the right to require any amendments to the Operative Documents as it considers reasonably necessary to reflect its role as Agent and shall act only at the direction of the Holders of more than 50% of the then outstanding principal amount of the Loan Certificates. It is agreed and understood that the Sublessee shall continue to pay Basic Rent to the Lender, as Agent, and that each of the Sublessee, the Trustee and the Equity Investor may, for all purposes hereof and of the other Operative Documents, deal with AMBAC (as Agent) as the sole agent for all Holders and as if it was the Lender hereunder. If at any time AMBAC is not a Holder and there is more than one Holder, the Persons then Holders shall mutually agree upon and appoint one of the Holders to act as the Agent of such other Holders as set forth above (mutatis mutandis). If such Holders fail to agree upon an Agent, the Holder who has then held its Loan Certificates for the longest period of time shall act as Agent.

SECTION 5.05. Certain Rights of the Trustee, the Trust Company and the Equity Investor. Notwithstanding any other provisions of this Agreement, including the Granting Clause, the following rights ("Excepted Rights") shall be reserved to the Trustee, the Trust Company or the Equity Investor, as the case may be (as separate and independent rights), to the extent described herein:

(a) at all times the Trustee shall have the right, together with the Lender, (A) to receive from the Sublessee or any permitted sub-sublessee, as the case may be, all notices, certificates, reports, filings, opinions of counsel and other documents and all information which either thereof is permitted or required to give or furnish to the Trustee or the Sublessor pursuant to any Operative Document, (B) to exercise inspection rights pursuant to Section 7 of the Sublease, (C) to exercise all rights of the Trustee under Section 9(a) of the Sublease (other than the right to receive any payments thereunder other than Excepted Property and the right of each of the Equity Investor and the Trustee in its individual capacity to receive reimbursement of its costs and expenses thereunder) and (D) to seek specific performance of the covenants of the Sublessee under the Sublease (or the comparable provisions of any permitted sub-sublease) relating to the protection, insurance and maintenance of the Equipment;

(b) so long as no Loan Event of Default shall have occurred and be continuing, the Trustee shall have the right (i) to the exclusion of the Lender, (A) to exercise the rights, election and options of the Sublessor to make any decision or determination and to give any notice, consent, waiver or approval with respect to any adjustments of Basic Rent, Stipulated Loss Values, Termination Value and Agreed Purchase Option Price under Section 3(d) of the Sublease, subject in each case to Section 3(f) of the Sublease and (B) to exercise all rights of the Head Lessee under Sections 3(f), 6, 7, 8, 9, 10, 12, 13, 16 and 18 of the Head Lease and of the Sublessor under Sections 13, 14 and 15 of the Sublease (in the case of Sections 14 and 15, other than the rights to receive the payments thereunder), and (ii) together with the Lender, (A) to amend, modify or supplement or grant such consents, waivers, authorizations or approvals which the Trustee would otherwise have the right to give under the Sublease or any permitted sub-sublease, (B) to consent to and approve or disapprove any permitted sub-subleases pursuant to Section 6(a) of the Sublease or mergers, assignments or conveyances under Section 19 of the Sublease, and (C) to approve accountants, engineers or counsel to render services for or issue opinions to the Trustee pursuant to the express provisions of the Operative Documents (any consent or approval referred to in subclause (A) through (C) of this clause (ii) being deemed to require the consent of both the Lender and the Trustee);

(c) the Trustee shall have the right, as the Sublessor, to maintain separate insurance with respect to the Equipment pursuant to Section 10(g) of the Sublease (or the comparable provisions of any permitted sub-sublease) and, but not to the exclusion of the Lender, to give notice to the Sublessee of any nonpayment of Rent, any failure to perform any covenant or observe any term of the Sublease or any misrepresentation pursuant to Section 16(a), 16(b) or 16(c), respectively, of the Sublease; and

(d) at all times each of the Trustee (as Trustee and as the Sublessor), the Trust Company and the Equity Investor shall have the right, to the exclusion of the Lender, to demand, collect, sue for or otherwise receive and enforce payment in respect of any Excepted Property due and payable to it and give and receive notices, waivers, approvals or consents relating to Excepted Property and to exercise the remedy provided to the Sublessor in Section 17(i) of the Sublease solely for purposes of exercising its rights under the Equity Deposit Agreement; and

(e) at all times the Trustee (as Trustee and as Sublessor) shall have the right to declare the Sublease to be in default pursuant to Section 16 of the Sublease solely for the purpose of exercising the remedies set forth in Section 17(i) of the Sublease.

Notwithstanding the foregoing (other than clause (e) above), and subject to the provisions of Sections 4.02, 4.03, 4.06 and 4.07, the Lender shall at all times have the right, to the exclusion of the Trustee and the Equity Investor, to (i) declare the Sublease to be in default pursuant to Section 17 of the Sublease and (ii) to exercise the remedies set forth in Section 17 of the Sublease (other than in connection with Excepted Property and Excepted Rights and the remedy provided to the Sublessor in Section 17(i) of the Sublease) and in Article IV hereof.

The Lender further agrees that notwithstanding the occurrence and continuance of a Loan Event of Default it shall not enter into any amendment to the Sublease or any other Collateral Document or grant any waiver thereunder or in respect thereof if the same would adversely affect the Equity Investor or the Trustee.

ARTICLE VI

SUPPLEMENTS AND AMENDMENTS TO THIS AGREEMENT AND ASSIGNED DOCUMENTS

SECTION 6.01. **Supplements and Amendments**. The Trustee (but only on the written request of the Equity Investor) and the Lender may enter into one or more amendments or supplements to this Agreement and, with the consent of the Lender (except with respect to Excepted Property, Excepted Rights and under Section 5.05(b)(i) and Section 5.05(d)), the Trustee may enter into any amendment, supplement, waiver, consent or other modification of the Sublease or other Operative Documents.

SECTION 6.02. **Effect of Amendments or Supplements**. Upon the execution of any amendment or supplement to this Agreement pursuant to this Article, this Agreement will be modified in accordance therewith, and such amendment or supplement will form a part of this Agreement for all purposes.

SECTION 6.03. Reference in Loan Certificates to Amendments and Supplements. Loan Certificates executed and delivered after the execution of any amendment or supplement pursuant to this Article may, and will if required by the Lender, bear a notation in form approved for in such amendment or supplement. If the amendment or supplement to this Agreement so provides, new Loan Certificates so modified as to conform, in the opinion of the Lender and the Trustee, to any such amendment or supplement may be prepared and executed and delivered by the Trustee in exchange for outstanding Loan Certificates, but without expense to the Lender.

ARTICLE VII

MISCELLANEOUS

SECTION 7.01. Termination of Agreement; Partial and Complete Release of Collateral. Upon payment or prepayment in full of the principal of, interest on and all other amounts then due to the Lender under all Loan Certificates and any other Operative Document, this Agreement will terminate and the Lien created by this Agreement upon the Collateral will be released. Upon prepayment in full of the amounts to be paid in connection with a partial prepayment of the principal of the Loan Certificates pursuant to Section 2.10(a)(iii), the Lien created by the Trustee by this Agreement on the Head Lease Rights in the related Item of Equipment or Items of Equipment with respect to which such prepayment was made will be released. Except in such cases, this Agreement and the Lien created hereby will continue in full force and effect in accordance with the terms hereof. Upon any such termination and/or release, the Lender will execute and deliver to, or as directed in writing by, and at the expense of, the Trustee or the Head Lessor, an instrument in form and substance satisfactory to the Trustee or the Head Lessor evidencing the full or partial termination, as the case may be, of this Agreement and the release of the Collateral (or Head Lease Rights in the related Item or Items of Equipment, as the case may be), from the Lien created by this Agreement.

SECTION 7.02. No Legal Title to Collateral in Holders; Termination of Interest in Collateral. (a) Except as may come about pursuant to enforcement of remedies hereunder, the Lender will not have legal title to any part of the Collateral. No transfer, by operation of law or otherwise, of any Loan Certificate or other right, title and interest of the Lender in and to the Collateral or hereunder will operate to terminate this Agreement or entitle the Lender to an accounting or to the transfer to it of any legal title to any part of the Collateral.

(b) The Lender will have no further interest in, or other right with respect to, the Collateral when and if the principal of and interest on all Loan Certificates held by the Lender and all other sums payable to the Lender hereunder, under the other Operative Documents and under such Loan Certificates will have been paid in full.

SECTION 7.03. **Notices**. Unless otherwise expressly specified or permitted by the terms hereof, any notice, consent, demand, request and other communication required or permitted hereunder will be in writing and will become effective when delivered by hand or by any overnight courier which requires a delivery receipt therefor or when received by telex, telecopier or registered first-class mail, postage pre-paid, if to the Lender, the Trustee, the Equity Investor or any Holder, at its address set forth in Schedule I to the Participation Agreement, or to such other address as any of the foregoing may designate by notice given in accordance with this Section. A copy of each communication given to the Trustee shall also be given to the Equity Investor.

SECTION 7.04. **Severability**. It is the intent of this Loan Agreement to confer to the Lender the rights and benefits hereunder to the fullest extent allowable by law. The unenforceability or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable or invalid. Any provision found to be unenforceable shall be severable from this Loan Agreement.

SECTION 7.05. **No Oral Modification or Continuing Waivers**. No term or provision of this Agreement or the Loan Certificates may be changed, waived, discharged or terminated orally, but only an instrument in writing signed by the party or the person against whom enforcement of the change, waiver, discharge or termination is sought.

SECTION 7.06. **Successors and Assigns**. All covenants and agreements contained herein will be binding upon, and inure to the benefit of, each of the parties hereto and the successors and assigns of each, all as herein provided. Any request, notice, direction, consent, waiver or other instrument or action by the Lender will bind the successors and assigns of the Lender. This Agreement and the Collateral will not be affected by any amendment or supplement to the Trust Agreement or by any other action taken under or in respect of the Trust Agreement. Each Holder of a Loan Certificate by its acceptance thereof agrees to be bound by this Agreement.

SECTION 7.07. **Headings**. The headings of the various Articles and Sections herein and in the table of contents hereto are for convenience of reference only and will not define or limit any of the terms or provisions hereof.

SECTION 7.08. **Agreement for Benefit of Certain Persons Only**. Nothing in this Agreement, whether expressed or implied, will be construed to give to any Person other than the parties hereto, the Equity Investor, the Head Lessor and subsequent Holders any legal or equitable right, remedy or claim under or in respect of this Agreement, and this Agreement will be for the sole and exclusive benefit of the parties hereto, the Equity Investor, the Head Lessor and subsequent Holders.

SECTION 7.09. **GOVERNING LAW**. THIS AGREEMENT SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE NEW

YORK GENERAL OBLIGATIONS LAW BUT EXCLUDING ALL OTHER CHOICE-OF-LAW AND CONFLICTS-OF-LAWS RULES).

SECTION 7.10. **Service of Process and Jurisdiction**. Any suit, action or proceeding against the Trust Company, the Trustee or the Lender (each individually a "Party" and collectively, the "Parties") with respect to this Agreement or any judgment entered by any court in respect of any thereof may be brought in the Supreme Court of the State of New York, County of New York or the United States District Court for the Southern District of New York (provided, that such jurisdiction shall be non-exclusive).

Each Party hereby irrevocably consents to the service of process in any suit, action or proceeding in said courts by the giving of notice thereof to such Party in accordance with Section 23(a) of the Participation Agreement at its address specified in Schedule I to the Participation Agreement. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any judgment entered by any court in respect of any thereof brought in any of the aforesaid courts and hereby further irrevocably waives any claim that any such suit, action or proceeding has been brought in an inconvenient forum. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE EXTENT PERMITTED BY LAW ITS RIGHT TO A JURY TRIAL OF ANY SUCH SUIT, ACTION OR PROCEEDING ARISING AS A RESULT OF OR RELATING TO THE TRANSACTIONS CONTEMPLATED BY THE OPERATIVE DOCUMENTS.

SECTION 7.11. **Counterparts and Effective Date**. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute but one and the same instrument. Although this Agreement is dated as of the date first above written for convenience, the actual date of execution hereof by the parties hereto is the Delivery Date and this Agreement shall be effective on, and shall not be binding on any party hereto until, the Delivery Date.

IN WITNESS WHEREOF, the parties hereto have caused this Loan and Security Agreement to be duly executed by their respective officers thereunto duly authorized, as of the Delivery Date.

Wilmington Trust Company, not in its individual capacity, except as expressly provided herein, but solely as the Trustee

By:_____
Name: James P. Lawler
Title: VP

AMBAC Investments Inc.,
as Lender

By:_____
Name: David J. Weissman
Title: First Vice President

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

On this 22nd day of August, 1997 before me personally appeared James P. Lawler to me personally known, who being by me duly sworn, says that he is the Vice President of Wilmington Trust Company, a Delaware banking corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregong instrument was the free act and deed of said corporation.

Robert M. Vilter

Robert M. Vilter

My commission expires February 14, 1998

ROBERT M. VILTER
Notary Public, State of New York
No. 02VI5023698
Qualified in New York County
Commission Expires Feb. 14, 19____

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

On this 22nd day of August, 1997 before me personally appeared David J. Weissman to me personally known, who being by me duly sworn, says that he is the Vice President of AMBAC Investments Inc., a corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregong instrument was the free act and deed of said corporation.

Robert M. Vilter

Robert M. Vilter

My commission expires February 14, 1998

ROBERT M. VILTER
Notary Public, State of New York
No. 02VI5023698
Qualified in New York County 98
Commission Expires Feb. 14, 19___

Exhibit A
to
Loan and Security
Agreement

Wilmington Trust Company,
a Delaware banking corporation,
not in its individual capacity,
except as otherwise expressly set forth, but solely
as the Trustee

LOAN CERTIFICATE (1997-E-FT)
ISSUED IN CONNECTION WITH LEASE AND
SUBLEASE OF RAIL EQUIPMENT

This Loan Certificate has not been registered
under the Securities Act of 1933, as amended,
or any state securities law, and is subject
to restrictions on transfer and sale.

New York, New York
August 22, 1997

$[ ]
Series _____

Associated with Equipment Lot _____

Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity, except as otherwise expressly set forth herein, but solely as the Trustee (the "Trustee") under that certain Trust Agreement (1997-E-FT) dated as of August 22, 1997 between the Equity Investor and the Trustee, hereby promises to pay to AMBAC Investments Inc. (the "Lender"), or registered assigns, the principal sum of [ ], together with interest on the unpaid principal amount hereof from time to time outstanding from and including the date hereof until such principal amount is paid in full at the Applicable Rate, payable on the dates set forth on Annex A attached hereto. Accrued interest hereon shall be payable on each date listed on Annex A hereto and on the date this Loan Certificate is paid in full. The Applicable Rate payable hereon may be adjusted on the Reset Date. Interest will be calculated on the basis of a 360-day year and twelve 30-day months. The aggregate principal amount of the Loan Certificates will be payable in

installments, payable on Payment Dates, as set forth on Annex A attached hereto. Payments of principal due and payable on this Loan Certificate on any Payment Date shall be in an amount equal to this Loan Certificate's pro rata share of the aggregate installments of principal due and payable on the Loan Certificates, as of such Payment Date, provided, however, that the final principal payment on this Loan Certificate shall in any and all events equal the then outstanding principal balance hereof. This Loan Certificate will bear interest at the Overdue Rate on any part of the principal amount hereof and, to the extent permitted by Applicable Law, interest and other amounts due hereunder, not paid when due (whether at stated maturity, by acceleration or otherwise), for the period the same is past due, payable on demand by the Holder hereof.

Payments of principal, interest and other amounts due hereunder will be payable in Dollars in immediately available funds prior to 1:00 p.m., New York time, on the due date thereof, to the Lender's account at, Citibank, N.A., 111 Wall Street, New York, New York 10043 (ABA #0210-0008-9, Credit to: A/C 36855852, Escrow Administration Concentration Account, for further credit to A/C 794539, Ref: MBTA (1997-E-FT), Attn: Kerry Monaghan), or such other account in the United States as the Lender may specify in writing, with at least 30 days' notice to the Trustee and the Sublessee). If any sum payable hereunder falls due on a day which is not a Business Day, then such sum shall be payable on the next succeeding Business Day and, if paid on such Business Day, the payment thereof shall be without penalty or interest or other adjustment.

Each payment made on this Loan Certificate will be applied, first, to the payment of interest on overdue interest (to the extent permitted by Applicable Law) at the Overdue Rate on this Loan Certificate to the date of such payment, second, to the payment of interest on overdue principal at the Overdue Rate on this Loan Certificate to the date of such payment, third, to the payment of accrued interest on this Loan Certificate to the date of such payment, fourth, to the payment of principal past due on this Loan Certificate, and fifth, to the payment of the principal amount of this Loan Certificate then due.

This Loan Certificate is one of the Loan Certificates referred to in the Loan and Security Agreement (1997-E-FT), dated as of, between Wilmington Trust Company, as trustee under the Trust Agreement, and the Lender (the "Loan Agreement"), which have been or are to be issued by the Trustee pursuant to, and subject to the terms of, the Loan Agreement. The Collateral is held by the Lender as security for the Loan Certificates. Reference is hereby made to the Loan Agreement for a statement of the rights and obligations of the Holder of, and the nature and extent of the security for, this Loan Certificate. Capitalized terms used and not otherwise defined in this Loan Certificate shall have the meanings given such terms in the Loan Agreement. By its acceptance of this Loan Certificate, the Holder hereof acknowledges and consents to the terms of the Loan Agreement and agrees to be bound by the provisions thereof.

All payments of principal and interest on this Loan Certificate, and all payments of any other amounts due hereunder or under the Loan Agreement will be made solely from the income and proceeds from the Collateral and only to the extent that the Trustee shall have sufficient

income or proceeds therefrom to enable the Trustee to make such payments in accordance with the terms of the Loan Agreement. The Holder hereof, by its acceptance of this Loan Certificate, agrees that it will look solely to the income and the proceeds from the Collateral to the extent available for distribution as provided in the Loan Agreement. Except as provided in Section 4.06 or 4.07 of the Loan Agreement, neither the Equity Investor nor any provider of a Transferee Guaranty will be personally liable for any amounts payable under or for any liability under the Loan Agreement or this Loan Certificate; provided, however, that nothing contained herein shall derogate from any liability of the Equity Investor that may arise under the Participation Agreement to the extent expressly provided for therein. Neither the Trust Company nor any officer or employee of the Trustee will be personally liable for any amounts payable or any liability under the Loan Agreement or this Loan Certificate except, in the case of the Trust Company, to the extent of claims arising out of gross negligence or willful misconduct and except as otherwise expressly provided herein or in any other Operative Document; provided, however, that nothing contained herein shall derogate from any liability of the Trust or the Trust Company that may arise under the Loan Agreement or any other Operative Document. Except as otherwise specifically provided in the Participation Agreement, all and each of the representations, warranties, undertakings and agreements made in the Loan Agreement on the part of the Trustee are made and intended not as personal representations, warranties, undertakings and agreements by or for the purpose or with the intention of binding the Trust Company personally, but are made and intended for the purpose of binding only the Trust, with all recourse being limited to the Collateral. This Loan Certificate is executed and delivered by the Trustee solely in the exercise of the powers expressly conferred upon it under the Trust Agreement. Except as otherwise specifically provided in the Participation Agreement or any other Operative Document, no personal liability or responsibility is assumed by the Trustee or the Trust Company hereunder or under the Loan Agreement and no such liability or responsibility shall at any time be imposed on the Trust Company or the Trustee on account of any representation, warranty, undertaking or agreement hereunder or under the Loan Agreement of the Trust Company or the Trustee either express or implied, all such personal liability, if any, being expressly waived by the Lender and each Holder.

There will be maintained a Loan Certificate Register for the purpose of registering transfers and exchanges of Loan Certificates at the principal office of the Trustee in the manner provided in Section 2.07 of the Loan Agreement. As provided in the Loan Agreement and subject to certain limitations therein set forth, the Loan Certificates may be transferred and a Loan Certificate is exchangeable for one or more new Loan Certificates of the same series of a like aggregate original principal amount and maturity date and interest rate as the Loan Certificate being surrendered, and in authorized denominations as requested by the Holder surrendering the same; provided, however, that prior to the Reset Date, the Trustee shall not register a transfer of a Loan Certificate to more than one Person (not counting Affiliates of the Lender). By its acceptance of this Loan Certificate, the Holder hereof is deemed to make all of the representations, warranties and agreements contained in Section 8 (*mutatis mutandis*), and to be bound by Section 15(b), of the Participation Agreement.

Prior to the due presentment for registration of transfer of this Loan Certificate, the Trustee and the Lender may deem and treat the Person in whose name this Loan Certificate is registered on the Loan Certificate Register as the absolute owner and holder hereof for the purpose of receiving payment of all amounts payable with respect to this Loan Certificate and for all other purposes whether or not this Loan Certificate is overdue, and neither the Trustee nor the Lender shall be affected by any notice to the contrary.

This Loan Certificate is subject to repayment, purchase or prepayment, as a whole or in part, prior to maturity only as permitted by the Loan Agreement and upon acceleration of the maturity hereof as a result of a Loan Event of Default.

THIS LOAN CERTIFICATE SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW BUT EXCLUDING ALL OTHER CHOICE-OF-LAW AND CONFLICTS-OF-LAWS RULES).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Trustee has caused this Loan Certificate to be executed as of the date hereof.

Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity, but solely as the Trustee

By:_____
Name:_____
Title:_____