

RECORDATION NO. 21733 FILED

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OCT 23 '98

1-45 PM

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October 23, 1998

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

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Trust Indenture and Security Agreement-[A], dated as of October 23, 1998, a primary document as defined in the Board's Rules for the Recordation of Documents.

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

Borrower: First Security Bank, National Association  
79 South Main Street  
Salt Lake City, Utah 84111

Indenture Trustee: Wilmington Trust Company  
Rodney Square North  
1100 North Market Street  
Wilmington, Delaware 19890

A description of the railroad equipment covered by the enclosed document is:

set forth on the Schedule attached to the Security Agreement

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BOARD

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*Counters*

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Mr. Vernon A. Williams  
October 23, 1998  
Page 2

Also enclosed is a check in the amount of \$26.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return one stamped copy of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/bg  
Enclosures

RECORDATION NO. 21733 FILED

OCT 23 '98 1-45 PM

TRUST INDENTURE AND SECURITY AGREEMENT-[A]

Dated as of October 23, 1998

Between

FIRST SECURITY BANK, NATIONAL ASSOCIATION, not in its individual capacity except  
as specifically provided herein, and otherwise solely as Owner Trustee

as Borrower,

And

WILMINGTON TRUST COMPANY,

as Indenture Trustee

Montell Rail Hopper Cars

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Exhibit A	-	Form of Note
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Annex I	-	Definitions
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## TRUST INDENTURE AND SECURITY AGREEMENT-[A]

THIS TRUST INDENTURE AND SECURITY AGREEMENT-[A] dated as of October 23, 1998 (this "Indenture"), between FIRST SECURITY BANK, NATIONAL ASSOCIATION, a national banking association ("FSB"), not in its individual capacity except as specifically provided herein, and otherwise solely as Owner Trustee (herein called the "Borrower") under the Trust Agreement dated as of April 27, 1998 between FSB and Pitney Bowes Credit Corporation, a Delaware corporation (the "Beneficiary"), and WILMINGTON TRUST COMPANY, a Delaware banking corporation, as Indenture Trustee hereunder and any successor appointed in accordance with the terms hereof (herein called the "Indenture Trustee");

### WITNESSETH:

WHEREAS, the Borrower and the Indenture Trustee desire by this Indenture, among other things, (i) to provide for the issuance by the Borrower of its Limited Recourse Secured Notes-[A], due January 6, 2018 (the "Notes") in an aggregate principal amount not to exceed \$22,985,892.78, expressed to bear interest and to be payable in principal amounts in accordance with Annex A to the Notes, substantially in the form of Exhibit A hereto with the addition of the interest rate and principal amount as agreed between the Borrower and the Loan Participant, and (ii) to provide for the assignment, mortgage and pledge by the Borrower to the Indenture Trustee, as part of the Indenture Estate hereunder, among other things, of, and the grant of a security interest in, certain of the Borrower's right, title and interest in and to the Equipment, the Lease, the Guaranty Agreement, the other Transaction Documents, and certain payments and other amounts received hereunder or thereunder, in accordance with the terms hereof, in trust, as security for, among other things, the Borrower's obligations for the equal and ratable benefit of the holders of the Notes; and

WHEREAS, all things necessary to make this Indenture the legal, valid and binding obligation of the Borrower and the Indenture Trustee, for the uses and purposes herein set forth, in accordance with its terms, have been done and performed and have happened.

### GRANTING CLAUSE

NOW, THEREFORE, THIS TRUST INDENTURE AND SECURITY AGREEMENT WITNESSETH, that, to secure the prompt payment of the principal of and interest and the Indenture Make Whole Amount, if any, on, and all other amounts due with respect to, the Notes from time to time outstanding hereunder and the performance and observance by the Borrower of all the agreements, covenants and provisions herein and in the Notes and the other Refunding Documents (collectively, the "Borrower Obligations"), all for the benefit of the holders of the Notes, and for the uses and purposes and subject to the terms and provisions hereof, and in consideration of the premises and of the covenants herein contained, and of the acceptance of the Notes by the Loan Participant, the Borrower does hereby sell, grant, assign, transfer, convey, mortgage, pledge, and confirm unto the Indenture Trustee, its successors

and assigns, for the security and benefit of the holders of the Notes from time to time and, subject to the provisions hereof, for the benefit of the Borrower, a security interest in and mortgage lien on all right, title and interest of the Borrower in and to the following described property, rights, interests and privileges (which collectively, including all property hereafter required to be subjected to the lien of this Indenture by any instrument supplemental hereto, but excluding Excepted Property and subject to Section 4.4, being herein called the "Indenture Estate"), to wit:

(1) the Lease (including the Lease Schedule and all the schedules, attachments, sub-schedules and riders thereto), including, without limitation, all payments of Rent, insurance proceeds, indemnities and other payments of any kind for or with respect to the Equipment, and all rights, powers, privileges, licenses, options and other benefits of the Borrower under the Lease (including all schedules and riders thereto), including, without limitation, the right to make all waivers and agreements, to give and receive all notices and other instruments or communications, to take such action upon the occurrence of a default thereunder, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted thereby or by law, and to do any and all other things which the Borrower is or may be entitled to do thereunder;

(2) the Bills of Sale, the Lease Acceptance Certificate, the Guaranty Agreement, and all other Operative Documents including, without limitation, all payments of any kind thereunder and all rights, powers, privileges, licenses, options and other benefits of the Borrower under any Operative Document including, without limitation, the right to make all waivers and agreements, to give and receive all notices and other instruments or communications, to take such action upon the occurrence of a default thereunder, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted thereby or by law, and to do any and all other things which the Borrower is or may be entitled to do thereunder;

(3) the Equipment, as more particularly described in Schedule 1 to this Indenture and in the Lease Schedule executed and delivered with respect to the Equipment, as provided in this Indenture and the Lease, and all additions, attachments and accessions thereto and any and all replacements and substitutions therefor;

(4) all insurance and requisition proceeds with respect to the Equipment;

(5) each sublease of the Equipment or any part thereof, and supplements thereto and all right, title and interest of the Borrower thereunder and therein, including, without limitation, all amounts of rental payments, insurance proceeds, indemnities and other payments of any kind for or with respect to the Equipment, and all rights, powers, privileges, licenses, options and other benefits of the Borrower under such sublease, including, without limitation, the right to make all waivers and agreements, to give and receive all notices and other instruments or communications, to take such action upon the

occurrence of a default thereunder, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted thereby or by law, and to do any and all other things which the Borrower is or may be entitled to do thereunder;

(6) all other moneys and securities now or hereafter paid or deposited or required to be paid or deposited with the Indenture Trustee pursuant to any term of this Indenture, the Lease or any other Transaction Document or required to be held by the Indenture Trustee hereunder or thereunder; and

(7) all proceeds of the foregoing.

Notwithstanding the foregoing provisions, there shall be excluded from the foregoing sale, grant, assignment, transfer, conveyance, mortgage, pledge or security interest granted by this Indenture and from the Indenture Estate all Excepted Property, which shall be retained by the Borrower, and such sale, grant, assignment, transfer, conveyance, mortgage, pledge and security interest shall be subject to the terms and conditions of this Indenture, including, without limitation, Section 4.4 and Article X.

TO HAVE AND TO HOLD all and singular the aforesaid property unto the Indenture Trustee, its successors and assigns, in trust for the benefit and security of the holders of the Notes from time to time, without preference, priority or distinction of any one Note over any other by reason of priority of time of issue, sale, negotiation, date of maturity thereof or otherwise for any cause whatsoever, and, subject to the provisions of Article X and the other provisions hereof, for the benefit of the Borrower and for the uses and purposes, and subject to the terms and provisions, set forth in this Indenture.

It is expressly agreed that anything herein contained to the contrary notwithstanding, the Borrower shall remain liable under each of the Transaction Documents to which it is a party (to the extent the Borrower is liable thereunder) to perform all of the obligations, if any, assumed by it thereunder, all in accordance with and pursuant to the terms and provisions thereof, and the Indenture Trustee and the holders of the Notes shall have no obligation or liability under any of the Transaction Documents to which the Borrower is a party by reason of or arising out of this assignment, nor shall the Indenture Trustee or the holders of the Notes be required or obligated in any manner to perform or fulfill any obligations of the Borrower under or pursuant to any of the Transaction Documents to which the Borrower is a party or, except as herein expressly provided, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

The Borrower does hereby constitute the Indenture Trustee the true and lawful attorney of the Borrower, irrevocably, with full power (in the name of the Borrower or otherwise) to, if an Indenture Default or Indenture Event of Default shall have occurred and be continuing, ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys due and to become due to the Borrower (other than Excepted Property), under or arising out of the Lease or any other Transaction Document, or to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Indenture Trustee may deem to be necessary or advisable in the premises. For so long as the Lien of this Indenture has not been discharged in accordance with the terms hereof, the Borrower under the Lease has directed the Lessee to make all payments of Basic Rent and Supplemental Rent (other than Excepted Property) payable to the Borrower by the Lessee and all other amounts which are required to be paid to or deposited with the Borrower pursuant to the Lease directly to the Indenture Trustee at such address as the Indenture Trustee shall specify, for application as provided in this Indenture. For so long as the Lien of this Indenture has not been discharged in accordance with the terms hereof, the Borrower agrees that promptly on receipt thereof, it will transfer to the Indenture Trustee any and all moneys from time to time received by it constituting part of the Indenture Estate, for distribution by the Indenture Trustee pursuant to this Indenture, except that the Borrower shall accept any Excepted Property.

The Borrower agrees that at any time and from time to time, upon the written request of the Indenture Trustee and at the Borrower's expense and at no expense to the Indenture Trustee, the Borrower will promptly and duly execute and deliver or cause to be executed and delivered any and all such further instruments and documents as the Indenture Trustee may deem desirable in obtaining the full benefits of this assignment and of the rights and powers herein granted.

Any and all property described in or referred to in the granting clauses hereof which is hereafter acquired (other than Excepted Property) shall ipso facto, and without any further conveyance, assignment or act on the part of the Borrower or the Indenture Trustee, become and be subject to the security interest herein granted as fully and completely as though specifically described herein, but nothing herein contained shall be deemed to modify or change the obligation of the Borrower under the preceding paragraph.

The Borrower does hereby warrant and represent that it has not assigned or pledged, and hereby covenants that it will not, except in accordance with the terms of Section 4.1 of the Note Purchase Agreement, assign or pledge, so long as the assignment hereunder shall remain in effect, any of its right, title or interest hereby assigned, to anyone other than the Indenture Trustee, and that it will not (other than in respect of Excepted Property and subject always to Section 4.4 and except as otherwise as provided in or permitted by this Indenture), accept and retain any payment from the Lessee, enter into an agreement amending or supplementing any of the Transaction Documents, execute any waiver or modification of, or consent under the terms of any of the Transaction Documents, settle or compromise any claim

(other than claims in respect of Excepted Property) against the Lessee arising under any of the Transaction Documents, or submit or consent to the submission of any dispute, difference or other matter arising under or in respect of any of the Transaction Documents (other than in respect of Excepted Property), to arbitration thereunder or enter into any business or activity other than the business of owning and leasing the Equipment.

It is understood and agreed by the parties hereto and by the holders from time to time of the Notes that this Indenture imposes no restriction on the Borrower's ability to transfer its Interest in the Indenture Estate, but that any such transfer is governed by the provisions of Section 4.1 of the Note Purchase Agreement.

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

## **ARTICLE I. DEFINITIONS**

Section 1.1. Certain Definitions. Unless the context otherwise requires, all capitalized terms used herein and not otherwise defined shall have the meanings set forth in Annex I hereto for all purposes of this Indenture. All references to articles, sections, clauses, schedules and appendices in this Indenture are to articles, sections, clauses, schedules and appendices in and to this Indenture unless otherwise indicated.

## **ARTICLE II. THE NOTES**

Section 2.1. Execution of Notes. The Notes shall be signed on behalf of the Borrower by any Person who, at the date of the actual execution of such Note, shall be a proper officer of the Borrower. Only such Notes as shall bear thereon a certificate of authentication executed by the Indenture Trustee substantially in the form set forth in Exhibit A hereto shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Indenture Trustee upon any Note executed by the Borrower shall be conclusive evidence that the Note so authenticated has been duly authenticated and delivered hereunder and that the holder is entitled to the benefits of this Indenture. The authentication by the Indenture Trustee of any Note issued hereunder shall not be construed as a representation or warranty by the Indenture Trustee as to the validity or security of this Indenture or of such Note, and the Indenture Trustee shall in no respect be liable or answerable for the use made of such Note or the proceeds thereof. The Indenture Trustee shall, upon presentation to it of Notes duly executed on behalf of the Borrower, authenticate such Notes upon the written request of the Borrower so to do and shall thereupon deliver such Notes to or upon the written order of the Borrower signed by any Person who, at the date of the actual execution of such order, shall be a proper officer of the Borrower.

The aggregate principal amount of the Notes to be issued under this Indenture shall not exceed \$22,985,892.78.

Section 2.2. Terms of Notes. There shall be issued and delivered to each Loan Participant one or more Notes, in the maturity and bearing the interest rate as set forth in the Notes, in a principal amount equal to the amount of the Notes purchased by such Loan Participant pursuant to the Note Purchase Agreement, which shall evidence the loan made by such Loan Participant, such Note to be substantially in the form set forth in Exhibit A hereto with deletions and insertions as appropriate including, without limitation, the interest rate and principal amount as agreed between the Borrower and the Loan Participant, duly authenticated by the Indenture Trustee and dated the Refunding Date.

The principal amount of and interest on each Note issued pursuant to the provisions of this Indenture shall be payable as set forth in the Notes. Interest accrued on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months on the principal amount thereof remaining unpaid from time to time from and including the date thereof to but excluding the date of payment. The Borrower shall furnish to the Indenture Trustee a copy of each Note issued pursuant to the provisions of this Indenture.

Section 2.3. Payment from Indenture Estate Only. All payments to be made under the Notes and, except as provided in the Beneficiary Letter, this Indenture shall be made only from the income and the proceeds from the Indenture Estate and only to the extent that the Indenture Trustee shall have received sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Article III hereof. Each holder of a Note, by its acceptance of such Note, agrees that (i) it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to such holder as herein provided and (ii) except as expressly provided in the Note Purchase Agreement or this Indenture, none of the Borrower, the Beneficiary, the Indenture Trustee or their respective permitted successors and assigns is or shall be personally liable to the holder of any Note for any amount payable under such Note or the Indenture or for any liability under the Note Purchase Agreement or this Indenture.

Section 2.4. Method of Payment.

(a) The principal of and the interest on each Note will be payable in U.S. dollars in immediately available funds to an account designated in writing by the Indenture Trustee to the Borrower and the Lessee.

(b) Whenever the date scheduled for any payment to be made hereunder or under any Note shall not be a Business Day, then such payment need not be made on such scheduled date but shall be made on the next succeeding Business Day with the same force and effect as if made on such scheduled date and (provided such payment is made on such next succeeding

Business Day) no interest shall accrue on the amount of such payment from and after such scheduled date to the time of such payment on such next succeeding Business Day.

Section 2.5. Application of Payments to Principal Amount and Interest. In the case of each Note, each holder thereof agrees that each payment received by it thereunder shall be applied, first, to the payment of accrued but unpaid interest on such Note then due thereunder, second, to the payment of the unpaid principal amount of such Note then due thereunder, third, to the payment of Indenture Make Whole Amount then due thereon, if any, and fourth, to the payment of the remaining outstanding principal amount of such Note; provided, that the Borrower may only prepay such Note in accordance with the provisions of Sections 2.10 and 3.2 hereof.

Section 2.6. Termination of Interest in Indenture Estate. A holder shall have no further interest in, or other right with respect to, the Indenture Estate when and if the principal amount of, Indenture Make Whole Amount, if any, and interest on all Notes held by such holder and all other sums payable to such holder hereunder and under such Notes and under the Note Purchase Agreement shall have been paid in full or as otherwise provided in Section 9.1 hereof.

Section 2.7. Transfer of Notes.

(a) The Indenture Trustee shall maintain at its corporate trust office in Wilmington, Delaware, or in the city in which the corporate trust office of a successor Indenture Trustee is located, a register for the purpose of registering transfers and exchanges of Notes (the "Register"). Subject to compliance with this Section 2.7, a holder of a Note intending to transfer such Note to a new payee, or to exchange any Note or Notes held by it for a Note or Notes of a different denomination or denominations, may surrender such Note or Notes to the Indenture Trustee at such corporate trust office of the Indenture Trustee, together with a written request from such holder to the Indenture Trustee for the issuance of a new Note or Notes, specifying the denomination or denominations (each of which shall be not less than \$1,000,000 in original face amount, or such lesser amount as shall constitute 100% of the Notes of such holder), and, in the case of a surrender for registration of transfer, the name and address of the transferee or transferees, provided that if the transferee requests that new Notes be issued in denominations of less than \$5,000,000 in original face amount, it shall have made arrangements with the Indenture Trustee for such transferee to pay the cost, if any, of wire transfers in excess of one wire transfer on each payment date. Promptly upon receipt of such documents and the transferee representation letter required by Section 2.7(d) hereof, the Borrower will issue, and the Indenture Trustee will authenticate, a new Note or Notes, in the same aggregate principal amount and dated the same date or dates as, with the same payment schedule, in the form set forth in Exhibit A hereto in the same maturity and bearing the same interest rate as the Note or Notes surrendered, in such denomination or denominations and payable to such payee or payees as shall be specified in the written request from such holder in accordance with the terms hereof. All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Borrower evidencing the same respective obligations, and entitled to the same security and benefits under this Indenture, as the Notes surrendered upon such registration of transfer

or exchange. The Indenture Trustee shall make a notation on each new Note or Notes of the amount of all payments or prepayments of principal and interest previously made on the old Note or Notes with respect to which such new Note or Notes is or are issued. From time to time, the Indenture Trustee will provide the Borrower with such information as it may request as to the registered holders of Notes.

(b) Prior to the due presentment for registration of transfer of a Note, the Borrower and the Indenture Trustee shall deem and treat the registered holder of such Note as the absolute owner and holder of such Note for the purpose of receiving payment of all amounts payable with respect to such Note and for all other purposes and shall not be affected by any notice to the contrary.

(c) The Indenture Trustee will promptly notify the Borrower and the Lessee of each request for a registration of transfer of a Note. The Indenture Trustee will promptly cancel and destroy all Notes surrendered for transfer or exchange pursuant to this Section.

(d) The Indenture Trustee shall not accept any request for a registration of transfer of a Note and the Borrower shall not issue any new Note or Notes unless a transferee representation letter, substantially in the form of Exhibit B hereto, has been properly completed by the proposed transferee and submitted therewith to the Indenture Trustee.

(e) Each holder of a Note by its acceptance of such Note agrees that (i) it will not transfer such Note to the Lessee or any Affiliate thereof or to a Restricted Assignee and (ii) it will only transfer such Note in compliance with the restrictions on transfers in Section 2.7 hereof.

Section 2.8. Mutilated, Destroyed, Lost or Stolen Notes. If any Note shall become mutilated, destroyed, lost or stolen, the Borrower shall, upon the written request of the holder of such Note, issue, and the Indenture Trustee shall authenticate and deliver in replacement thereof, a new Note in the form set forth in Exhibit A hereto payable to the same holder in the same principal amount, of the same maturity, with the same payment schedule, bearing the same interest rate and dated the same date as the Note so mutilated, destroyed, lost or stolen. The Indenture Trustee shall make a notation on each new Note of the amount of all payments or prepayments of principal and interest theretofore made on the Note so mutilated, destroyed, lost or stolen and the date to which interest on such old Note has been paid. If the Note being replaced has become mutilated, such Note shall be surrendered to the Indenture Trustee and forwarded to the Borrower by the Indenture Trustee. If the Note being replaced has been destroyed, lost or stolen, the holder of such Note shall furnish to the Borrower and the Indenture Trustee such security or indemnity as may be required by them to save the Borrower and the Indenture Trustee harmless and evidence satisfactory to the Borrower and the Indenture Trustee of the destruction, loss or theft of such Note and of the ownership thereof. If an original Loan Participant or its nominee or any other institutional investor is the owner of any mutilated, destroyed, lost or stolen Note, then the affidavit of any of its authorized

officers setting forth the fact of mutilation, destruction, loss or theft and such Loan Participant's (or other institutional investor's) ownership of the Note at the time of such mutilation, destruction, loss or theft shall be accepted as satisfactory evidence thereof and no indemnity shall be required as a condition to execution and delivery of a new Note other than the written agreement of such Loan Participant (or other institutional investor) to indemnify the Borrower and the Indenture Trustee from all risks resulting from the authentication and delivery of the substitute Note.

Section 2.9. Payment of Transfer Taxes. Upon the transfer of any Note or Notes pursuant to Section 2.7, the Borrower or the Indenture Trustee may require from the party requesting such new Note or Notes payment of a sum to reimburse the Borrower or the Indenture Trustee for, or to provide funds for the payment of, any tax or other governmental charge in connection therewith.

Section 2.10. Prepayments.

(a) Neither any prepayment of any Notes nor any purchase by the Borrower of any Notes may be made except to the extent and in the manner expressly permitted by this Indenture. Every prepayment of Notes required to be made pursuant to this Section herein shall be made in accordance with the provisions of Section 3.2 herein.

(b) On the date that the Lessee is obligated to pay Stipulated Loss Value pursuant to Exhibit F to the Lease, the Borrower shall prepay and apply, and there shall become due and payable, a principal amount of the Notes equal to the Loan Value of the Unit or Units of Equipment as to which the Stipulated Loss Value relates and all accrued and unpaid interest thereon, together with the Indenture Make Whole Amount with respect to such Notes being prepaid determined as of two Business Days prior to the date of such prepayment; provided, however, that in the event that the Lessee exercises its right under Exhibit F to the Lease to replace such Unit of Equipment, upon the Lessee's compliance with the requirements and conditions of such Exhibit F, the Borrower shall not be required to make any payment under this Subsection 2.10(b).

(c) The Borrower may, on any Payment Date, prepay the outstanding principal amount of the Notes, in whole and not in part, by payment of the principal amount of the Notes and accrued interest thereon to the date of such prepayment, together with the Indenture Make Whole Amount, if any, determined by the Borrower as of two Business Days prior to the date of such prepayment pursuant to this Section 2.10(d). Any notice of prepayment pursuant to this Section 2.10(d) shall be given by the Borrower not more than 60 nor less than 30 days prior to the Payment Date on which such prepayment shall be made.

Section 2.11. Equally and Ratably Secured. All Notes at any time outstanding under this Indenture shall be equally and ratably secured hereby without preference, priority or distinction on account of the date or dates or the actual time or times of the issue or maturity of such Notes so that all Notes at any time issued and outstanding hereunder shall have the same rights, Liens and preferences under and by virtue of this Indenture.

⊗ to the extent of such Stipulated Loss Value and any payments made by Beneficiary in respect of Indenture Make Whole Amounts,

Section 2.12. Taxes; Withholding.

(a) Subject to the directions contained in clauses (b), (c) or (d) of this Section 2.12, the Indenture Trustee agrees, to the extent required by applicable law, to withhold from each payment due under or in respect of any Note, United States withholding taxes at the appropriate rate, and, on a timely basis, to deposit such amounts with an authorized depository and make such reports, filings and other reports in connection therewith, and in the manner, required under applicable law. Under any such withholding, the Indenture Trustee shall forthwith notify the affected holder of such Note, the Borrower and the Lessee of such withholding. The Indenture Trustee shall promptly furnish to each holder of a Note (but in no event later than the date thirty (30) calendar days after the due date thereof) an IRS Form 1042S (or similar forms as at any relevant time in effect), if applicable, indicating payment in full of any taxes withheld from any payments by the Indenture Trustee to such Persons, together with all such other information and documents reasonably requested by the holders of the Notes and necessary or appropriate to enable each holder of a Note to substantiate a claim for credit or deduction with respect thereto for income tax purposes of the country where each holder of a Note is located.

(b) If any Person that is a United States Person and that is entitled to be paid any amount by the Indenture Trustee pursuant to this Indenture (i) is an exempt recipient, or (ii) is not an exempt recipient and has furnished a properly completed and currently effective IRS Form W-9 (or such successor IRS Form as may be required by the IRS to avoid withholding of United States federal income tax), no amount shall be withheld by the Indenture Trustee in respect of United States federal income tax, except to the extent required by applicable law.

(c) If any Person that is a Non-U.S. Person and that is entitled to be paid any amount by the Indenture Trustee pursuant to this Indenture (i) has furnished to the Indenture Trustee a properly completed and correctly effective IRS Form 4224, in duplicate, or Form W-8 (or such successor IRS Form as may be required by the IRS to avoid withholding of United States federal income tax) during the calendar year, in which and prior to the date on which, such amount is to be paid and (ii) has not notified the Indenture Trustee of the inaccuracy or expiration of such IRS Form, no portion of that amount shall be withheld by the Indenture Trustee in respect of United States Federal income tax, except to the extent required by applicable law. In the case of a Non-U.S. Person claiming exemption under Section 871(h) or Section 881(c) of the Code with respect to payments of "portfolio interest," an IRS Form W-8 (or any subsequent versions thereof or successors thereto) shall be supplemented with a certificate representing that such Non-U.S. Person is not a bank for purposes of Section 881(c) of the Code, is not a 10-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 864(d) of the Code).

(d) If any Person that is a Non-U.S. Person and that is entitled to be paid any amount by the Indenture Trustee pursuant to this Indenture (i) has furnished to the Indenture Trustee a properly completed and currently effective IRS Form 1001 (or such successor IRS Form

as may be required by the IRS to reduce or eliminate the amount of United States federal income tax otherwise required to be withheld from such amount) and (ii) has not notified the Indenture Trustee of the inaccuracy or expiration of such U.S. Treasury Form, only the reduced portion, if any, of that amount required by applicable law or treaty shall be withheld by the Indenture Trustee in respect of United States federal income tax, except to the extent required by applicable law.

(e) Any taxes withheld hereunder shall for all purposes of this Indenture and the Notes be treated as actually paid to the intended recipient.

Section 2.13. Rule 144A Reporting Requirements. For so long as any of the Notes remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, the Borrower covenants and agrees that it shall, during any period in which it is not subject to Section 13 or 15(d) of the Exchange Act, make available to the Loan Participant or to any prospective purchaser of such Notes designated by the Loan Participant, upon the request of such Loan Participant or prospective purchaser, any information in its possession required to be provided by Rule 144A(d)(4) under the Securities Act in a format reasonably practicable to the Borrower. This covenant is intended to be for the benefit of the Loan Participant and prospective purchasers designated by such Loan Participant from time to time.

### ARTICLE III. RECEIPT, DISTRIBUTION AND APPLICATION OF INCOME FROM THE INDENTURE ESTATE

Section 3.1. Rental Payment Distribution. Except as otherwise provided in Section 3.3, hereof, each installment of (i) Basic Rent, as well as any Supplemental Rent in respect of interest on overdue installments of Basic Rent, as the case may be, made pursuant to the Lease and (ii) any other moneys paid over by the Borrower or the Lessee, as the case may be, to the Indenture Trustee for such purpose shall, in each case, be distributed by the Indenture Trustee as promptly as possible but in no event later than two Business Days after receipt thereof in the following order of priority: first, so much of such installment as shall be required for the purpose shall be distributed and paid to the holders of the Notes to pay in full the aggregate amount of the payment or payments of principal and interest (as well as any interest on overdue principal or interest) then due, such distribution to be made ratably, without priority of one over the other, in the proportion that the amount of such payment or payments then due with respect to each such Note bears to the aggregate amount of payments then due under all such Notes; and second, the balance, if any, of such installment remaining thereafter shall be promptly distributed to the Borrower or as the Borrower may direct. The portion of each such installment distributed to a holder of a Note shall be applied by such holder in payment of such Note in accordance with the terms of Section 2.5 herein.

Any payment made directly by the Lessee to the Indenture Trustee (whether of Rent, Stipulated Loss Value or otherwise) shall be considered a payment by the Borrower.

Section 3.2. Payment in the Event of Prepayment.

(a) Except as otherwise provided in Section 3.3 herein, the amount, if any, received by the Indenture Trustee in accordance with Section 2.10(b) or (d) hereof, shall be paid and applied as follows:

(1) First, to the payment of an amount equal to the accrued and unpaid interest on that portion of the Notes to be prepaid pursuant to the following clause;

(2) Second, in the case of a prepayment described in Section 2.10(b), an amount equal to the Loan Value of such Equipment for which settlement is then being made shall be applied to the prepayment of the Notes, so that the remaining payments of principal on each Note shall be reduced in the proportion that the aggregate principal amount of the prepayment of such Note bears to the unpaid principal amount of the Notes immediately prior to the prepayment (after giving effect to all other prepayments to be made on such date on the Notes), and in the case of any prepayment described in Section 2.10(d), an amount equal to the outstanding principal amount of the Notes shall be applied to the prepayment in full of the Notes;

(3) Third, to the payment of the Indenture Make Whole Amount, if any, on all or that portion of the Notes to be prepaid pursuant to the preceding clause; and

(4) Fourth, the balance, if any, of such amounts remaining thereafter shall be distributed to the Borrower or as the Borrower may direct.

The "Loan Value" at any time in respect of any Unit of Equipment shall be an amount equal to the product of (A) a fraction, the numerator of which is an amount equal to the Equipment Cost of such Unit for which a settlement is then being made and the denominator of which is the aggregate Equipment Cost of all Equipment then subject to the Lease (including the Equipment for which settlement is then being made), times (B) the unpaid principal amount of the Notes immediately prior to the prepayment provided for in this Section 3.2(a) (after giving effect to all other prepayments to be made on such date on the Notes).

(b) Except as otherwise provided in Section 3.3 or 3.5 hereof, any amounts received directly or through the Lessee from any governmental authority or other party pursuant to the Lease with respect to any Unit of Equipment as the result of an Event of Loss and any amounts of insurance proceeds (other than insurance proceeds constituting Excepted Property) for damage to the Indenture Estate received directly or through the Lessee from any insurer pursuant to the Lease

with respect thereto as the result of an Event of Loss, shall be applied as provided in clause (a) of this Section 3.2.

Section 3.3. Payments after Indenture Event of Default.

(a) Except as provided in Section 3.5 herein, all payments received and amounts realized by the Indenture Trustee after an Indenture Default or an Indenture Event of Default shall have occurred and be continuing, as well as all payments or amounts then held or thereafter received by the Indenture Trustee as part of the Indenture Estate while such Indenture Default or Indenture Event of Default shall be continuing, shall be held by the Indenture Trustee for application in the manner provided for in Sections 3.3(b) and 4.7 herein, as applicable, in respect of proceeds of the Indenture Estate.

(b) Except as provided in Sections 3.3(a) and 3.5 hereof, if an Indenture Default or an Indenture Event of Default shall have occurred and be continuing, the Indenture Trustee shall not make any distribution to the Borrower but shall hold amounts otherwise distributable to the Borrower as collateral security for the obligations secured hereby and invested as provided in Section 5.4(b) hereof, until the earlier to occur of (i) the date on which no Indenture Default or Indenture Event of Default shall exist, on which such date all amounts then held by the Indenture Trustee under this Section 3.3(b) with respect to such Indenture Default or Indenture Event of Default, and all amounts otherwise distributable to the Borrower hereunder, less any amounts owed by the Borrower hereunder or under any other Transaction Document, shall be distributed to the Borrower or as the Borrower may direct, and (ii) acceleration of the Notes and application of such amounts pursuant to Section 4.7 hereof; provided that, if such Indenture Default or Indenture Event of Default arises solely as the result of a Lease Default or Lease Event of Default (including any Indenture Default or Indenture Event of Default described in Section 4.1(a) or (b) hereof) and any amounts are held pursuant to this Section 3.3(b) for a period of 365 days during which time the Indenture Trustee shall not have accelerated payment of the Notes, pursuant to Section 4 hereof, then all amounts then held by the Indenture Trustee under this Section 3.3(b) with respect to such Indenture Default or Indenture Event of Default, and all amounts otherwise distributable to the Borrower hereunder, less any amounts payable hereunder or owed by the Borrower, shall be distributed to the Borrower or as the Borrower may direct.

Section 3.4. Other Payments. Except as otherwise provided in Section 3.3 or 3.5 hereof,

(a) any payments received by the Indenture Trustee for which no provision as to the application thereof is made in the Lease or the Note Purchase Agreement or elsewhere in this Article III, and

(b) all payments received and amounts realized by the Indenture Trustee under the Lease or any other Transaction Document or otherwise with respect to the Equipment

(other than payments constituting Excepted Property) to the extent received or realized at any time after payment in full of the principal of and interest on and the Indenture Make Whole Amount, if any, all Notes, as well as any other amounts remaining as part of the Indenture Estate after payment in full of the principal of and interest on and the Indenture Make Whole Amount, if any, all Notes issued hereunder, shall be distributed forthwith by the Indenture Trustee in the order of priority set forth in Section 4.7 hereof, or as expressly required by any Transaction Document.

Section 3.5. Distribution of Excepted Property. Notwithstanding any other provision of this Indenture or any other Transaction Document, all amounts constituting Excepted Property received by the Indenture Trustee shall be promptly paid by the Indenture Trustee to the Person or Persons entitled thereto.

Section 3.6. Payments Received after Payment in full of Borrower Obligations. Upon the indefeasible payment in full of all Borrower Obligations, any payment received by the Indenture Trustee under the Lease or any other Transaction Documents shall be distributed to the Borrower.

#### **ARTICLE IV. INDENTURE EVENTS OF DEFAULT AND REMEDIES OF THE INDENTURE TRUSTEE**

Section 4.1. Indenture Events of Default. The following events shall constitute "Indenture Events of Default" and each such Indenture Event of Default shall be deemed to exist and continue so long as, but only so long as, it shall not have been remedied:

- (a) a Lease Event of Default (other than as provided in Section 4.1(b); or
- (b) default by the Borrower in making any payment when due of principal of, or interest on, any Note or Notes arising as a result of a Lease Event of Default pursuant to Section 24(a) of the Lease, and such default shall continue unremedied for five days after notice provided by the Indenture Trustee pursuant to Section 4.4(a)(i), or default by the Borrower in making any other payment to the holders of the Notes or the Indenture Trustee when due under any Refunding Document (including, without limitation, Indenture Make Whole Amount, if any) and such default shall continue for 10 days after receipt by the Borrower of written notice of such default given by the Indenture Trustee to the Borrower; or
- (c) any failure by the Borrower to observe or perform any covenant or obligation of it in this Indenture or in any other Transaction Document, if such failure is not remedied within a period of 30 days after written notice thereof is given by the Indenture Trustee to the Borrower; or
- (d) any failure by the Borrower to observe or perform any of its other covenants or obligations in the Note Purchase Agreement or any other Transaction Document to

which it is a party, if such failure is not remedied within a period of 30 days after the earlier of the date on which (i) a Responsible Officer of the Borrower becomes aware of such failure and (ii) written notice thereof is given by the Indenture Trustee to the Borrower specifying such failure (or longer grace period is so specified in the applicable covenant); or

(e) any representation or warranty made by the Borrower under the Note Purchase Agreement or hereunder, or by any representative of the Borrower in any document or certificate furnished to the Indenture Trustee or any Loan Participant in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to have been untrue or incorrect in any material respect as of the date made and shall continue to be untrue or incorrect in any material respect; or

(f) the Borrower shall (i) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or (ii) consent to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it, or (iii) admit in writing its inability to pay its debts generally as they come due, or (iv) make a general assignment for the benefit of creditors, or (v) take any corporate action to authorize any of the foregoing; or

(g) an involuntary case or other proceeding shall be commenced against the Borrower, seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60 consecutive days, or any seizure or attachment of a material portion of the assets of the Borrower, which shall remain unvacated or unbonded for a period of 60 days; or

Section 4.2. Acceleration; Rescission and Annulment. If an Indenture Event of Default occurs and is continuing, the Indenture Trustee may, and upon the directions of a Majority in Interest shall, subject to Section 4.4 hereof, declare the unpaid principal amount of all Notes then outstanding and accrued interest thereon to be due and payable together with a premium, as liquidated damages for loss of a bargain, and not as a penalty, equal to the Indenture Make Whole Amount, if any, with respect thereto (such Indenture Make Whole Amount, if any, to be paid as and to the extent contemplated by Section 4.7), provided that the Notes will automatically become due and payable without any action by the Indenture Trustee or the holders of the Notes in the case of an Indenture Event of Default under Section 4.1(f) or (g) hereof. At any time after the Indenture Trustee has declared the unpaid principal amount of all Notes then outstanding to be due and payable and prior to the sale of any of the Indenture Estate pursuant to this Article IV, the holders of at least 66-2/3% in aggregate unpaid principal amount of the Notes then outstanding, by written notice to the Borrower and the Indenture Trustee, may rescind and annul such declaration and thereby annul

its consequences if: (i) there has been paid to or deposited with the Indenture Trustee an amount sufficient to pay all overdue installments of interest (including interest on overdue payments of principal and interest) on the Notes, and the principal of, interest and the Indenture Make Whole Amount, if any, on any Notes that have become due otherwise than by such declaration of acceleration, (ii) the rescission would not conflict with any judgment or decree, and (iii) all other Indenture Defaults and Indenture Events of Default, other than nonpayment of principal and interest on the Notes that have become due solely because of such acceleration, have been cured or waived.

Section 4.3. Remedies with Respect to Indenture Estate.

(a) After an Indenture Event of Default and acceleration of the Notes shall have occurred and so long as any Indenture Event of Default shall be continuing, then and in every such case the Indenture Trustee, as assignee hereunder of the Lease or as secured party hereunder in respect of the Equipment or otherwise, may, and when required pursuant to the provisions of Article V hereof shall, subject to Sections 4.4 and 4.5 hereof, exercise any or all of the rights and powers and pursue any and all of the remedies pursuant to the Lease and this Indenture and may recover judgment in its own name as the Indenture Trustee against the Indenture Estate and may take possession of all or any part of the Indenture Estate, and may exclude the Borrower and all persons claiming under any of them wholly or partly therefrom.

(b) Subject to Section 4.4 hereof, after an Indenture Event of Default and acceleration of the Notes shall have occurred and so long as any Indenture Event of Default shall be continuing, then and in every such case the Indenture Trustee may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession, and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of such sale by registered mail to the Borrower and the Lessee once at least ten days prior to the date of such sale or the date on which the Indenture Trustee enters into a binding contract for a private sale, and any other notice which may be required by law, sell and dispose of the Indenture Estate, or any part thereof, or interest therein, at public auction to the highest bidder or at private sale in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Indenture Trustee may determine, and at any place (whether or not it be the location of the Indenture Estate or any part thereof) and time designated in the notice above referred to. Any such public 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 Indenture Trustee or the holder or holders of any Notes, or any interest therein, may bid and become the purchaser at any such public sale. The Indenture Trustee may exercise such right without possession or production of the Notes or proof of ownership thereof, and as representative of the holders may exercise such right without including the holders as parties to any suit or proceeding relating to foreclosure of any property in the Indenture Estate, the Borrower hereby irrevocably constitutes the Indenture Trustee the true and lawful attorney-in-fact of the Borrower (in the name of the Borrower or otherwise) for the purpose, following the occurrence and during the continuance of an Indenture Event of Default, of effectuating

any sale, assignment, transfer or delivery for enforcement of the Lien of this Indenture, whether pursuant to foreclosure or power of sale or otherwise, to execute and deliver all such bills of sale, assignments and other instruments as the Indenture Trustee may consider necessary or appropriate, with full power of substitution, the Borrower hereby ratifying and confirming all that such attorney or any substitute shall lawfully do by virtue hereof. Nevertheless, if so requested by the Indenture Trustee or any purchaser, the Borrower shall ratify and confirm any such sale, assignment, transfer or delivery, by executing and delivering to the Indenture Trustee or such purchaser all bills of sale, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request.

(c) Subject to Section 4.4 hereof, the Borrower agrees, to the fullest extent that it lawfully may, that, after an Indenture Event of Default and acceleration of the Notes shall have occurred and so long as any Indenture Event of Default shall be continuing, then and in every such case, the Indenture Trustee may take possession of all or any part of the Indenture Estate and may exclude the Borrower and all Persons claiming under any of them wholly or partly therefrom. At the request of the Indenture Trustee, the Borrower shall promptly execute and deliver to the Indenture Trustee, or cause to be executed and delivered to the Indenture Trustee, such instruments of title and other documents as the Indenture Trustee may deem necessary or advisable to enable the Indenture Trustee or an agent or representative designated by the Indenture Trustee, at such time or times and place or places as the Indenture Trustee may specify, to obtain possession of all or any part of the Indenture Estate. If the Borrower shall fail for any reason to execute and deliver or cause to be executed or delivered such instruments and documents to the Indenture Trustee, the Indenture Trustee may pursue all or part of the Indenture Estate wherever it may be found and may enter any of the premises of the Lessee or the Borrower wherever the Indenture Estate may be or be supposed to be and search for the Indenture Estate and take possession of and remove the Indenture Estate. Upon every such taking of possession, the Indenture Trustee may, from time to time, at the expense of the Indenture Estate, make all such expenditures for maintenance, insurance, repairs, replacements, alterations, additions and improvements to any of the Indenture Estate, as it may deem proper. In each such case, the Indenture Trustee shall have the right to use, operate, store, control or manage the Indenture Estate, and to carry on the business and to exercise all rights and powers of the Borrower relating to the Indenture Estate, as the Indenture Trustee shall deem best, including the right to enter into any and all such agreements with respect to the maintenance, operation, leasing or storage of the Indenture Estate or any part thereof as the Indenture Trustee may determine; and the Indenture Trustee shall be entitled to collect and receive all tolls, rents, revenues, issues, income, products and profits of the Indenture Estate and every part thereof, without prejudice, however, to the right of the Indenture Trustee under any provision of this Indenture to collect and receive all cash held by, or required to be deposited with, the Indenture Trustee hereunder. Such tolls, rents, revenues, issues, income, products and profits shall be applied to pay the expenses of holding and operating the Indenture Estate and of conducting the business thereof, and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments which the Indenture Trustee may be required or may elect to make, if any, for taxes, assessments, insurance or other proper charges upon the Indenture Estate or any part thereof (including the employment of engineers

and accountants to examine, inspect and make reports upon the properties and books and records of the Indenture Estate), and all other payments which the Indenture Trustee may be required or authorized to make under any provision of this Indenture, as well as just and reasonable compensation for the services of the Indenture Trustee, and of all persons properly engaged and employed by the Indenture Trustee, including the reasonable expenses of the Indenture Trustee.

(d) After an Indenture Event of Default and acceleration of the Notes shall have occurred and so long as any Indenture Event of Default shall be continuing and the Indenture Trustee shall have obtained possession of any Unit of Equipment, the Indenture Trustee shall not be obligated to use or operate such Unit or cause such Unit to be used or operated directly or indirectly by itself or through agents or other representatives or to Lease, license or otherwise permit or provide for the use or operation of such Unit by any other Person unless (i) the Indenture Trustee shall have been able to obtain insurance in kinds, at rates and in amounts satisfactory to it in its discretion to protect the Indenture Estate and the Indenture Trustee, as trustee and individually, against any and all liability for loss or damage to such Unit and for public liability and property damage resulting from use or operation of such Unit of Equipment and (ii) funds are available in the Indenture Estate to pay for all such insurance or, in lieu of such insurance, the Indenture Trustee is furnished with indemnification from the holders of the Notes or any other Person upon terms and in amounts satisfactory to the Indenture Trustee in its discretion to protect the Indenture Estate and the Indenture Trustee, as trustee and individually, against any and all such liabilities.

#### Section 4.4. Certain Rights of the Borrower.

##### (a) Right to Cure.

(i) In the event of the occurrence of a Lease Event of Default in respect of any payment of Basic Rent under the Lease (which, in consequence, gives rise to an Event of Default pursuant to Section 4.1(a) or (b) of this Indenture), then as long as no other Indenture Event of Default (other than arising from such Lease Event of Default) shall have occurred and be continuing, the Borrower may (but need not) pay to the Indenture Trustee, at any time prior to the expiration of a period of five Business Days (a "5-Day Period") after delivery of written notice of such default from the Indenture Trustee (it being understood and agreed by the Indenture Trustee that prior to the expiration of which 5-Day Period, the Indenture Trustee shall not accelerate payment of the Notes pursuant to this Article IV or declare the Lease in default pursuant to Section 25 of the Lease or exercise any of the rights, powers or remedies pursuant to such Section 25 or this Article IV), an amount equal to the full amount of such payment of Basic Rent, together with any interest at the Overdue Rate due thereon on account of the delayed payment thereof, and such payment by the Borrower shall be deemed to cure any Indenture Event of Default which arose from such failure of the Lessee (but such cure shall not relieve the Lessee of any of its obligations); provided, however, that the Borrower shall not be entitled to cure more than one default in the payment of Basic Rent at a time or an aggregate of four such defaults during the term of this Indenture.

(ii) In the event of the occurrence of a Lease Event of Default resulting from the failure of the Lessee to perform or observe any other covenant, condition or agreement to be performed or observed under the Lease which is curable by the payment of money, then, so long as no Indenture Event of Default not attributable to such Lease Event of Default shall have occurred and be continuing hereunder, the Borrower may, but shall not be obligated to, perform or observe any such covenant, condition or agreement on behalf of the Lessee prior to the expiration of a period of 10 Business Days (a "10-Day Period") after delivery of written notice of such default from the Indenture Trustee (it being understood and agreed by the Indenture Trustee that prior to the expiration of such 10-Day Period, the Indenture Trustee shall not accelerate payment of the Notes pursuant to this Section 4 or declare the Lease in default pursuant to Section 25 of the Lease or exercise any of the rights, powers or remedies pursuant to such Section 25 or this Article IV, in each case with respect to such default) and the Indenture Trustee agrees to accept such performance or observance by the Borrower as constituting performance or observance of the relevant covenant, condition or agreement by the Lessee and such payment or performance by the Borrower shall be deemed to cure any Indenture Event of Default which arose or otherwise has arisen on account of such failure by the Lessee (but shall not relieve the Lessee of any of its obligations).

(iii) Upon any cure by the Borrower in accordance with Section 4.4(a)(i) or (ii) hereof, as the case may be, the Borrower shall, to the extent of its payments, be subrogated to the rights of the Indenture Trustee, as assignee hereunder of the Borrower to receive such payment of Basic Rent or Supplemental Rent (and any interest due thereon on account of the delayed payment thereof) or right of reimbursement, and shall be entitled, so long as no other Indenture Event of Default not attributable to the Lease Event of Default in respect of which such cure thereof has been made by the Borrower shall have occurred and be continuing or would result therefrom, to receive such payment upon its receipt by the Indenture Trustee as aforesaid (but in each case only if all amounts of principal and interest at the time due and payable on the Notes shall have been paid in full); provided that the Borrower shall not attempt to recover any such amount paid by it on behalf of the Lessee pursuant to this Section 4.4(a) except by demanding of the Lessee payment of such amount or by commencing an action against the Lessee to require the payment of such amount; and provided further that in no event shall the Borrower exercise any of the remedies under the Lease other than such demand or commencement of such action of specific performance. If the Indenture Trustee receives any payment to which the Borrower would be entitled pursuant to this Section 4.4(a)(iii), such payment shall be distributed to the Borrower.

(iv) Upon any acceleration of the Notes, the Borrower may purchase all but not less than all of the outstanding Notes for a purchase price equal to the aggregate outstanding principal amount of all Notes, all accrued and unpaid interest and Indenture Make Whole Amount, if any, thereon.

(b) Shared Rights. Notwithstanding any provision of this Indenture or any other Transaction Document to the contrary,

(i) the Borrower and the Beneficiary shall at all times retain the right, to the exclusion of the Indenture Trustee, (A) to Excepted Property and with respect thereto to exercise any election or option or make any decision or determination or give or receive any notice, consent, waiver or approval in respect of, or demand, collect, sue for or otherwise obtain all amounts due from the Lessee, as the case may be, on account of any Excepted Property but not the right to exercise any remedy under the Lease, and (B) to maintain separate insurance under Exhibit G to the Lease;

(ii) the Borrower and the Indenture Trustee shall each retain the right to, (A) receive from the Lessee all notices, certificates, reports, filings, opinions of counsel, copies of all documents and all information which the Lessee is permitted or required to give or furnish to the Lessor pursuant to the Lease or to the Borrower pursuant to any other Transaction Document, and (B) exercise the inspection rights provided for in Section 9 of the Lease (subject to the terms of the Lessee Acknowledgment and Estoppel);

(iii) so long as no Indenture Event of Default has occurred and is continuing, the Borrower and the Indenture Trustee shall each retain the right, acting jointly, to exercise the rights, elections and options of the Borrower as the Lessor under the Lease to make any decision or determination, and to give any notice, consent, waiver or approval under the Lease and thereafter, all such rights may be exercised solely by the Indenture Trustee;

(iv) so long as no Indenture Event of Default which is not the result of a Lease Event of Default has occurred and is continuing, the Borrower may request in writing to the Indenture Trustee that the Indenture Trustee enforce compliance by the Lessee with the Lease with respect to a Lease Event of Default which has occurred and is continuing. Upon the earlier to occur of (x) the Indenture Trustee takes no action within sixty (60) days from the date of the written notice required by the previous sentence or (y) the Indenture Trustee has advised the Borrower in writing that it has elected not to enforce, the Borrower shall have the right to enforce performance by the Lessee of the covenant, representation or condition under the Lease in respect of which such Lease Event of Default shall have occurred and be continuing pursuant to, but only pursuant to, Section 25 of the Lease, and the Indenture Trustee shall have the exclusive right to exercise or enforce all of the other rights, powers and remedies of the Lessor under the Lease in respect of such Lease Event of Default; and

(v) so long as the Note Purchase Agreement and this Indenture shall remain in effect or any of the Borrower Obligations shall remain unpaid, the Borrower shall not hinder or delay the Indenture Trustee in enforcing any of the Indenture Trustee's rights with respect to any of the Indenture Estate in accordance with the terms of this Indenture, Note Purchase Agreement or any other Transaction Document. Except as otherwise provided herein, the Borrower hereby expressly waives any rights it might have at any time to challenge any action or inaction of the Indenture Trustee in respect of the Indenture Estate in accordance with the terms hereof, and the Borrower waives all claims, damages and demands against the Indenture Trustee arising out of the repossession,

retention, sale or other disposition of the Indenture Estate in accordance with the terms hereof in connection with the occurrence of an Indenture Event of Default.

Section 4.5. Rights of the Lessee.

Notwithstanding the provisions of this Indenture, including, without limitation, Section 4.3 hereof, so long as no Lease Event of Default shall have occurred and be continuing, none of the Indenture Trustee, the holders from time to time of the Notes or the Borrower shall take any action contrary to, or disturb, the Lessee's rights under the Lease, except in accordance with the provisions of the Lease, including, without limitation, the Lessee's rights to possession and use of, and of quiet enjoyment of, the Equipment. Each of the Indenture Trustee, the Noteholders, Borrower and Loan Participant agree that the Lessee is a third party beneficiary of the covenants contained in Sections 4.5 and 2.7(e) of this Indenture.

Section 4.6. Waiver of Existing Defaults. A Majority in Interest by notice to the Indenture Trustee on behalf of all holders of the Notes may waive any past Indenture Default or Indenture Event of Default hereunder and its consequences, except an Indenture Default or Indenture Event of Default: (i) in the payment of the principal of, premium, if any, or interest on any Note, or (ii) in respect of a covenant or provision hereof which under Article VIII hereof cannot be modified or amended without the consent of the holder of each Note affected. Upon any such waiver, such default shall cease to exist, and any Indenture Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 4.7. Application of Sale and Other Proceeds. The proceeds of any sale of the Indenture Estate, or any part thereof, and the proceeds of any remedy hereunder following acceleration of the Notes shall be paid and applied as follows:

First, so much of such payments or amounts as the Indenture Trustee shall require for any fees which are due and payable for its services under this Indenture and any tax, expense (including reasonable attorneys' fees) or other loss incurred by the Indenture Trustee (to the extent reimbursable and not previously reimbursed and to the extent incurred in connection with its duties as the Indenture Trustee) shall be distributed to the Indenture Trustee;

Second, so much of such payments or amounts as shall be required to reimburse the holders of the Notes for payments made by them to the Indenture Trustee pursuant to Section 4.3(d) and Section 5.2(f) hereof shall be distributed to such holders of the Notes, without priority of one over the other, in accordance with the amount of the payment or payments made by, or payable to, each such holder;

Third, so much of such payments or amounts remaining as shall be required to pay the principal of, accrued interest and Indenture Make Whole Amount, if any, on all Notes then

due and payable, whether by declaration of acceleration pursuant to Section 4.2 hereof or otherwise, and in case the aggregate amount so to be distributed shall be insufficient to pay in full the aforesaid amounts, then, ratably to the holders of the Notes, without priority of one over the other, in the proportion that the aggregate unpaid principal amount of all Notes held by each such holder, plus the accrued but unpaid interest thereon to the date of distribution, bears to the aggregate unpaid principal amount of all Notes, plus the accrued but unpaid interest thereon to the date of distribution;

Fourth, so much of such payments or amounts as shall be required to pay all other sums due and owing to the Indenture Trustee or to the holders of the Notes hereunder or under any of the Transaction Documents, and in case the aggregate amount so to be distributed shall be insufficient to pay in full the aforesaid amounts, then, to the Indenture Trustee and the holders of the Notes ratably without priority among one or the other;

Fifth, the balance, if any, of such payments or amounts remaining thereafter shall be distributed to the Borrower or as the Borrower may direct.

Section 4.8. Remedies Cumulative. Each and every right, power and remedy herein specifically given to the Indenture Trustee or otherwise in this Indenture shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Indenture Trustee, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the time or thereafter any other right, power or remedy. No delay or omission by the Indenture Trustee in the exercise of any right, remedy or power or in the pursuance of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Borrower or the Lessee or to be an acquiescence therein.

Section 4.9. Discontinuance of Proceedings. In case the Indenture Trustee shall have proceeded to enforce any right, power or remedy under this Indenture by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Indenture Trustee, then and in every such case the Borrower, the Indenture Trustee, the holders of the Notes and the Lessee shall be restored to their former positions and rights hereunder with respect to the Indenture Estate, and all rights, remedies and powers of the Indenture Trustee shall continue as if no such proceedings had been undertaken (but otherwise without prejudice).

Section 4.10. Noteholders' Rights. Notwithstanding any other provisions of this Indenture or any other Transaction Document, it is understood and agreed that (x) the holders of the Notes shall have no greater rights than the Indenture Trustee (and such rights of the holders of the Notes shall be subject to the same limitations and restrictions as those of the Indenture Trustee) with

respect to the Indenture Estate hereunder and (y) the Indenture Trustee shall, exclusive of the holders of the Notes, be the only Person to exercise remedies under the Transaction Documents.

Section 4.11. Acceleration Clause. Subject to the other provisions of this Indenture, in case of any sale of the Indenture Estate or any part thereof pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Indenture, the principal of the Notes, if not previously due, the interest accrued thereon and the Indenture Make Whole Amount, if any, determined as of two Business Days prior to the payment date, shall at once become and be immediately due and payable; also, in the case of any such sale, the purchaser or purchasers, for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Notes and any claims for interest matured and unpaid thereon, in order that there may be credited as paid on the purchase price the sum apportionable and applicable to the Notes held by such purchaser, including principal and interest thereof, out of the net proceeds of such sale.

## ARTICLE V. DUTIES OF THE INDENTURE TRUSTEE

The Indenture Trustee accepts the trusts hereunder and agrees to perform the same, but only upon the terms and conditions hereof, including the following, to all of which the Borrower and the respective holders of the Notes at any time outstanding by their acceptance thereof agree:

### Section 5.1. Duties of the Indenture Trustee.

(a) If any payments of (i) Rent under the Lease payable directly to the Indenture Trustee or (ii) payments of the principal of, interest or Indenture Make Whole Amount, if any, on the Notes due and payable on any date shall not have been paid in full on such due date, the Indenture Trustee shall give telephonic notice within one Business Day (followed by prompt written notice) to the Borrower, the Loan Participants and the Lessee specifying the amount and nature of such deficiency in payment. In the event the Indenture Trustee shall have knowledge of an Indenture Event of Default or an Indenture Default, the Indenture Trustee shall give prompt notice of such Indenture Event of Default or Indenture Default to the Lessee, the Borrower and the Loan Participants by telecopier or telephone (to be promptly confirmed in writing).

(b) The Indenture Trustee undertakes (i) except while an Indenture Event of Default actually known to the Indenture Trustee shall have occurred and be continuing, to perform such duties and only such duties as are specifically set forth in this Indenture and the other Transaction Documents, and (ii) while an Indenture Event of Default actually known to the Indenture Trustee shall have occurred and be continuing, to exercise such of the rights and powers as are vested in it by this Indenture and to use the same degree of care and skill in their exercise as an ordinary prudent person would exercise in the conduct of his or her own affairs.

(c) The Indenture Trustee upon receipt of instruments furnished to the Indenture Trustee pursuant to the provisions of this Indenture and the Note Purchase Agreement, shall examine the same to determine whether or not such instruments conform to the requirements of this Indenture, but need not make an independent verification of the facts or matters set forth therein. Until termination of the Indenture pursuant to Section 9.1 hereof, the Indenture Trustee shall retain all documents delivered to it by the Borrower pursuant to the Note Purchase Agreement.

Section 5.2. The Indenture Trustee's Liability. No provision of this Indenture shall be construed to relieve the Indenture Trustee from liability for its own negligent action, negligent failure to act, or its own willful misconduct, except that:

(a) the Indenture Trustee shall not be liable except for the performance of such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Indenture Trustee but the duties and obligations of the Indenture Trustee shall be determined solely by the express provisions of this Indenture; and

(b) in the absence of bad faith on the part of the Indenture Trustee, the Indenture Trustee may conclusively rely upon the authenticity of, and the truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon, any resolution, Officer's Certificate, opinion of counsel, note, request, notice, consent, waiver, order, signature guaranty, notarial seal, stamp, acknowledgment, verification, appraisal, report, stock certificate, or other paper or document reasonably believed by the Indenture Trustee to be genuine and to have been signed, affixed or presented by the proper party or parties; and

(c) in the absence of bad faith on the part of the Indenture Trustee, whenever the Indenture Trustee shall consider it necessary or desirable that any matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by an Officer's Certificate; provided, however, that the Indenture Trustee may require further and additional evidence and make such further investigation as it may consider reasonable; and

(d) the Indenture Trustee shall not be liable for any error of judgment made in good faith by an officer of the Indenture Trustee unless it shall be proved that the Indenture Trustee was negligent in ascertaining the pertinent facts; and

(e) the Indenture Trustee shall not be deemed to have knowledge of any Indenture Default or Indenture Event of Default unless and until an officer of the corporate trust department of the Indenture Trustee shall have actual knowledge thereof or the Indenture Trustee shall have received written advice thereof; and

(f) whether or not an Indenture Event of Default shall have occurred, the Indenture Trustee shall not be under any obligation to exercise any of the powers vested in it by this Indenture or take any action under this Indenture which may tend to involve it in any expense or liability, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it by the security afforded to it by the terms of this Indenture, unless and until it is requested in writing so to do by one or more holders of Notes outstanding hereunder and furnished, from time to time as it may require, with reasonable security and indemnity; provided, however, that in the case of a Loan Participant or any other holder which is an institutional investor, the written indemnity of such Loan Participant or such holder shall be sufficient without requiring any additional security; and

(g) whether or not an Indenture Event of Default shall have occurred, whenever it is provided in this Indenture that the Indenture Trustee consent to any act or omission by any Person or that the Indenture Trustee exercise its discretion in any manner, the Indenture Trustee may (but need not) seek the written direction of a Majority in Interest (and shall be duly protected in relying thereon) and, unless written evidence of such direction has been received by the Indenture Trustee upon its request, it shall be fully justified in refusing so to consent or so to exercise its discretion; provided, however, that a Majority in Interest shall have the right to determine which of the remedies herein set forth shall be adopted and to direct the time, method and place of conducting all proceedings to be taken under the provisions of this Indenture for the enforcement thereof or of the Notes; provided, however, that the Indenture Trustee shall have the right to decline to follow any such direction if the Indenture Trustee shall be advised by counsel that the action or proceedings so directed may not lawfully be taken or would be unjustly prejudicial to any holder of Notes not party to such direction or would be contrary to the terms of the Lease or any other Transaction Document; and

(h) the Indenture Trustee may consult with counsel and the written advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith reliance thereon and in strict conformity therewith; and

(i) the Indenture Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys, or by or through co-trustees or separate trustees, provided that the Indenture Trustee shall use due care in appointing the same, and the Indenture Trustee shall not be responsible for any co-trustee or separate trustee when it reasonably determines such co-trustees or separate trustees are necessary to the performance of its duties hereunder, so long as such parties shall have agreed for the benefit of the holders of the Notes to comply with the standard of care provided herein for the Indenture Trustee; the Indenture Trustee may in all cases pay reasonable compensation to all such attorneys, agents, co-trustees or separate trustees, as may be engaged in connection with the trusts hereof and will be reimbursed by the Borrower pursuant to Section 5.1(b) of the Note Purchase Agreement on demand for the costs thereof; and

(j) the Indenture Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture and the instructions conforming to the requirements of this Indenture; and

(k) the Indenture Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of a Majority in Interest, relating to the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee, or exercising any trust or power conferred upon the Indenture Trustee, under this Indenture.

#### Section 5.3. No Responsibility of the Indenture Trustee for Recitals, Etc.

(a) The recitals and statements contained herein and in the Notes (except for the Indenture Trustee's certificate of authentication endorsed on the Notes) shall be taken as the recitals and statements of the Borrower, and the Indenture Trustee assumes no responsibility for the correctness of the same, nor shall the Indenture Trustee have any responsibility for or any liability with respect to any disclosure, warranty, representation or concealment or failure to disclose in connection with the offering, solicitation, sale or distribution of the Notes by the Borrower or by any other Person.

(b) The Indenture Trustee makes no representation as to the validity or sufficiency of this Indenture, or of the Notes secured hereby, the security hereby or thereby afforded, the title of the Borrower to the Equipment or the descriptions thereof, or the value of any such collateral, or the filing or recording or registering of this Indenture or any other document.

(c) The Indenture Trustee shall not be concerned with or accountable to any Person for the use or application of any deposited moneys which shall be released or withdrawn in accordance with the provisions of this Indenture or of any property or securities or the proceeds thereof which shall be released from the lien hereof in accordance with the provisions of this Indenture.

#### Section 5.4. Status of Moneys Received.

(a) All moneys received by the Indenture Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys or funds, except to the extent required by mandatory provisions of law, and may be deposited by the Indenture Trustee under such general conditions as may be prescribed by law and neither the Indenture Trustee nor any agent of the Indenture Trustee shall be under any liability for interest on any moneys received by it hereunder. The Indenture Trustee or any agent of the Indenture Trustee, in its individual or any other capacity, may become the owner of any Note and be interested in any financial transaction with the Borrower or any affiliated corporation, or the Indenture Trustee or such agent may act as depository or otherwise

in respect to other Securities of the Borrower or any affiliated corporation, all with the same rights which it would have if it were not the Indenture Trustee or such agent.

(b) The Indenture Trustee shall invest and reinvest any funds from time to time held by the Indenture Trustee in such Specified Investments as are directed in writing by the Borrower; provided that if an Indenture Event of Default shall have occurred and be continuing, such funds shall be invested in Indenture Investments. Upon any sale or payment of any investment, the proceeds thereof, plus any interest received by the Indenture Trustee thereon shall be held by the Indenture Trustee as part of the fund from which such investment was made for application as a part of such fund. The Indenture Trustee shall not be liable for any losses stemming from any investment made pursuant to this Section 5.4.

#### **ARTICLE VI. CERTAIN LIMITATIONS ON INDENTURE TRUSTEE'S RIGHTS**

The Indenture Trustee agrees that it shall have no right against the holders of the Notes or the Indenture Estate (except as expressly provided in Section 4.7 hereof) for any fee as compensation for its services hereunder or any expenses or disbursements incurred in connection with the exercise and performance of its powers and duties hereunder or any indemnification against liability which it may incur in the exercise and performance of such powers and duties but shall look solely to the Borrower pursuant to Section 5.1(b) of the Note Purchase Agreement and to the Beneficiary pursuant to the Beneficiary Letter for such payment and indemnification and that the Indenture Trustee shall not have any Lien on nor security interest in the Indenture Estate as security for such compensation, expenses, reasonable counsel fees, if any, disbursements and indemnification except as provided in Section 4.7 hereof.

#### **ARTICLE VII. RESIGNATION OR REMOVAL OF INDENTURE TRUSTEE; APPOINTMENT OF SUCCESSOR**

Section 7.1. Resignation or Removal of the Indenture Trustee. The Indenture Trustee or any successor thereto may resign at any time without cause by giving at least 30 days' prior written notice to the Borrower and the holders of the Notes. A Majority in Interest may at any time remove the Indenture Trustee without cause by an instrument in writing delivered to the Borrower and the Indenture Trustee. The resignation or removal of the Indenture Trustee and the appointment of a successor Indenture Trustee shall become effective only upon the successor Indenture Trustee's acceptance of appointment as provided in this Article VII.

Section 7.2. Appointment of Successor. In the case of the resignation or removal of the Indenture Trustee, a Majority in Interest may appoint a successor Indenture Trustee or if a successor Indenture Trustee shall not have been appointed and accepted its appointment hereunder within 60 days after the Indenture Trustee gives notice of resignation or is removed as provided

above, the retiring Indenture Trustee, the Borrower or any holder of a Note may petition any court of competent jurisdiction for the appointment of a successor Indenture Trustee. Any successor Indenture Trustee so appointed shall immediately and without further act be superseded by any successor Indenture Trustee appointed by a Majority in Interest.

Section 7.3. Acceptance of Appointment. Any successor Indenture Trustee, however appointed, shall execute and deliver to the Borrower and to the predecessor Indenture Trustee an instrument accepting such appointment, and thereupon such successor Indenture Trustee, without further act, deed or conveyance, but subject to Section 7.4 hereof, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor Indenture Trustee hereunder in the trusts hereunder applicable to it with like effect as if originally named the Indenture Trustee herein; but nevertheless, upon the written request of such successor Indenture Trustee such predecessor Indenture Trustee shall execute and deliver an instrument transferring to such successor Indenture Trustee, upon the trusts herein expressed applicable to it, all the estates, properties, rights, powers and trusts of such predecessor Indenture Trustee, and such predecessor Indenture Trustee shall duly assign, transfer, deliver and pay over to such successor Indenture Trustee all moneys or other property then held by such predecessor Indenture Trustee hereunder.

Section 7.4. Qualification. The Indenture Trustee shall be a bank or trust company organized under the laws of the United States or any State thereof having a combined capital and surplus of at least \$250,000,000 and having experience in transactions similar to the financing and leasing arrangements hereunder and under the Transaction Documents, if there be such an institution willing, able and legally qualified to perform the duties of the Indenture Trustee hereunder upon reasonable or customary terms. In case the Indenture Trustee shall cease to be eligible in accordance with the provisions of this Section 7.4, the Indenture Trustee shall resign immediately in the manner and with the effect specified in Section 7.1 hereof.

Section 7.5. Merger. Any corporation into which the Indenture Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Indenture Trustee shall be a party, or any corporation to which substantially all the corporate trust business of the Indenture Trustee may be transferred, shall, subject to the terms of Section 7.4 hereof, be the Indenture Trustee under this Indenture without further act.

**ARTICLE VIII.**  
**SUPPLEMENTS AND AMENDMENTS**  
**TO THIS INDENTURE AND OTHER DOCUMENTS**

Section 8.1. Supplemental Indentures with Consent of Majority In Interest. With the written consent of a Majority in Interest, the Borrower may, and the Indenture Trustee, subject to Section 8.2 hereof, shall, at any time and from time to time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or

eliminating any of the provisions of this Indenture or of modifying in any manner the rights and obligations of holders of the Notes and of the Borrower; provided, however, without the consent of each holder of a Note affected thereby, no such supplemental indenture shall:

(i) change the final maturity of the principal of any Note, or change the dates or amounts of payment of any installment of the principal of, Indenture Make Whole Amount, if any, or interest on any Note, or reduce the principal amount thereof or the premium, if any, or interest thereon, or change to a location outside the United States the place of payment where, or the coin or currency in which, any Note or the Indenture Make Whole Amount, if any, or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment of principal or Indenture Make Whole Amount, if any, or interest on or after the date such principal or Indenture Make Whole Amount, if any, or interest becomes due and payable; or

(ii) create any Lien with respect to the Indenture Estate except such as are permitted by this Indenture, or deprive any holder of a Note of the benefit of the Lien on the Indenture Estate created by this Indenture or modify Article X hereof; or

(iii) reduce the percentage in principal amount of the Notes, the consent of whose holders is required for any such supplemental indenture, or the consent of whose holders is required for any waiver (of compliance with certain provisions of this Indenture, or of certain defaults hereunder and their consequences) provided for in this Indenture; or

(iv) modify the rights, duties or immunities of the Indenture Trustee; or

(v) modify any provisions of this Section 8.1, except to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the holder of each Note affected thereby; or

(vi) modify any provisions of Section 8.5, except to provide that certain other provisions of the Note Purchase Agreement cannot be modified or waived without the consent of the holder of each Note affected thereby.

Section 8.2. The Indenture Trustee Protected. If in the opinion of the Indenture Trustee any document required to be executed pursuant to the terms of Section 8.1 hereof adversely affects any right, duty, immunity or indemnity in favor of the Indenture Trustee under this Indenture, the Note Purchase Agreement, the Lease or any other Transaction Document, the Indenture Trustee may in its discretion decline to execute such document.

Section 8.3. Request of Substance, not Form. It shall not be necessary for the consent of the holders of Notes under Section 8.1 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 8.4. Documents Mailed to Holders. Promptly after the execution by the Indenture Trustee of any document entered into pursuant to Section 8.1 hereof, the Indenture Trustee shall mail, by first-class mail, postage prepaid, a conformed copy thereof to each holder of a Note at its address set forth in the Register, but the failure of the Indenture Trustee to mail such conformed copies shall not impair or affect the validity of such document.

Section 8.5. Amendments to the Note Purchase Agreement. With the written consent of a Majority in Interest, the Borrower may, and the Indenture Trustee, subject to Section 8.2 hereof, shall, at any time and from time to time, amend the Note Purchase Agreement for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Note Purchase Agreement or of modifying in any manner the rights and obligations of holders of the Notes and of the Borrower; provided, however, without the consent of each holder of a Note affected thereby, no such amendment shall modify any provisions of Section 4.1(b) or 6.5 of the Note Purchase Agreement.

## ARTICLE IX. MISCELLANEOUS

### Section 9.1. Termination of Indenture.

(a) With respect to each Unit of Equipment, this Indenture and the trusts created hereby for the benefit of the holders of the Notes shall terminate in respect of such Unit and this Indenture shall be of no further force or effect with respect thereto upon the earliest to occur of (i) the termination of the Lease with respect to such Unit by the Lessee and upon payment in full to the Indenture Trustee of the amounts required to be paid pursuant to Section 2.10(b) hereof, in respect of such Unit, and all other sums payable to the Indenture Trustee and the holders of the Notes under the Transaction Documents, (ii) the prepayment in full of the entire principal amount of, the Indenture Make Whole Amount, if any, and interest on all Notes outstanding hereunder and all other sums payable to the Indenture Trustee and the holders of the Notes under the Transaction Documents, (iii) the payment in full of the entire principal amount of, the Indenture Make Whole Amount, if any, and interest on all Notes outstanding hereunder and all other sums payable to the Indenture Trustee and the holders of the Notes hereunder and under such Notes and under the other Transaction Documents upon the maturity date of the Notes, and (iv) the entire principal amount of, the Indenture Make Whole Amount, if any, and interest on all of the Notes outstanding hereunder, and all other sums payable to the Indenture Trustee and the holders of the Notes hereunder and under such Notes and under the other Transaction Documents shall have been defeased on customary terms and conditions reasonably satisfactory to the Indenture Trustee, including, without limitation a tax indemnification of the holders of the Notes.

(b) With respect to each Unit of Equipment, this Indenture and the trusts created hereby solely for the benefit of the Noteholders shall terminate in respect of such Unit of Equipment upon replacement of such Unit pursuant to Exhibit F to the Lease.

Section 9.2. No Legal Title to Indenture Estate in Holders. No holder of a Note shall have legal title to any part of the Indenture Estate. No transfer, by operation of law or otherwise, of any Note or other right, title and interest of any holder of a Note in and to the Indenture Estate or hereunder shall operate to terminate this Indenture or the trusts hereunder or entitle any successor or transferee of such holder to an accounting or to the transfer to it of legal title to any part of the Indenture Estate.

Section 9.3. Sale of Equipment by the Indenture Trustee is Binding. Any sale or other conveyance of any Unit of Equipment by the Indenture Trustee made pursuant to the terms of this Indenture or the Lease shall bind the holders of the Notes and the Borrower and shall be effective to transfer or convey all right, title and interest of the Indenture Trustee, the Borrower and such holders of the Notes in and to such Unit. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale or conveyance or as to the application of any sale or other proceeds with respect thereto by the Indenture Trustee.

Section 9.4. Notices. Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be in writing or by facsimile, and any such notice shall become effective (a) upon personal delivery thereof, including, without limitation, by prepaid overnight mail or courier service, (b) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (c) in the case of notice by facsimile, upon confirmation of receipt thereof, provided such transmission is promptly further confirmed by any of the methods set forth in clauses (a) or (b) above, in each case addressed to each party hereto at its address set forth below or, in the case of any such party hereto, at such other address as such party may from time to time designate by written notice to the other parties hereto:

If to the Lessee:

MONTELL USA, INC.  
3 Little Falls Centre  
2801 Centerville Road  
Wilmington, DE 19808  
Attn: General Counsel

If to the Guarantor:

MONTELL N.V.  
Hoeksteen 66  
2132 MS Hoofddorp  
The Netherlands  
Attn: Chief Legal Officer

If to the Borrower:

FIRST SECURITY BANK, NATIONAL ASSOCIATION  
Corporate Trust Services  
79 South Main Street  
Salt Lake City, Utah 84111  
Attn: Val T. Orton

with a copy to the Beneficiary

If to the Beneficiary:

PITNEY BOWES CREDIT CORPORATION  
27 Waterview Drive  
Shelton, Connecticut 06484-4361  
Attn: Vice President, Operations

If to Indenture Trustee:

WILMINGTON TRUST COMPANY  
1100 North Market Square  
Rodney Square North  
Wilmington, DE 19890  
Attention: David Vanesky

If to the Loan Participant:

PRUDENTIAL SECURITIES INCORPORATED  
One New York Plaza, 15th Floor  
New York, New York 10292-2015  
Attn: Christopher L. Poli

Section 9.5. Notice of Default. In the event the Borrower shall have knowledge of an Indenture Default or an Indenture Event of Default, the Borrower shall give prompt written notice of such Indenture Default or Indenture Event of Default to the Lessee, the Indenture Trustee and the Loan Participants by telegram, telex, or telephone (to be promptly confirmed in writing).

Section 9.6. Severability. Any provision of this Indenture which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such

prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 9.7. Separate Counterparts. This Indenture may be executed in any number of counterparts each of such counterparts constituting an original, but all of such counterparts being only one Indenture.

Section 9.8. Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Borrower and its successors and permitted assigns, and the Indenture Trustee and its successors and permitted assigns, and each holder of a Note, all as herein provided. Any request, notice, direction, consent, waiver or other instrument or action by any holder of a Note shall bind the successors and assigns of such holder.

Section 9.9. Headings. The headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 9.10. **GOVERNING LAW. THIS INDENTURE SHALL BE IN ALL RESPECTS GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.**

Section 9.11. All Payments from Indenture Estate. All payments under the Notes shall be made only from the Indenture Estate. No director, officer, employee or stockholder, as such, of the Lessee (other than the Guarantor), the Borrower or the Indenture Trustee shall have any liability for any obligations of the Lessee, the Borrower, the Beneficiary or the Indenture Trustee or under the Notes or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation, except as may be expressly provided in any Transaction Document. Each holder of the Notes by accepting a Note waives and release all such liability. The waiver and release are part of the consideration of the Notes.

Section 9.12. Payments on Insolvency, Liquidation or Default. In the event of any distribution, division or application, partial or complete, voluntary or involuntary, by operation of law or otherwise, of all or any part of the assets of the Lessee or the proceeds thereof, to creditors of the Lessee's business, or upon the sale of all or substantially all of the Lessee's assets then, and in any such event, any payment or distribution of any kind or character, either in cash, securities or other property, which shall be payable or deliverable upon or with respect to any or all of the Indenture Estate, or the proceeds from the sale or other disposition thereof, shall be paid or delivered to, and may be retained by the Indenture Trustee for application to any of the Borrower Obligations due or not due, until all of the Borrower Obligations to the Indenture Trustee shall have first been indefeasibly and fully paid and satisfied.

Any payment or distribution made to the Borrower shall be held in trust for and paid over to the Indenture Trustee to the extent necessary to pay the Borrower Obligations in full.

Section 9.13. Termination. Upon the indefeasible payment in full of the Notes and fulfillment of all of the Borrower's obligations under the Note Purchase Agreement and this Indenture, the Indenture Trustee shall execute and deliver to the Borrower such releases, termination statements and other similar documents as the Borrower may reasonably request.

Section 9.14. Amendments or Modifications. Neither the Indenture Trustee nor the Borrower may amend, modify or supplement the Lease or any other Operative Document without the prior written consent of the Borrower or the Indenture Trustee, as the case may be, such consent not to be unreasonably withheld or delayed.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed by their respective officers thereunto duly authorized, as of the date and year first above written.

FIRST SECURITY BANK, NATIONAL ASSOCIATION, not in its individual capacity except as specifically provided herein, and otherwise solely as Owner Trustee

By: Val T. Orton  
Name: Val T. Orton  
Title: Vice President

WILMINGTON TRUST COMPANY,  
as the Indenture Trustee

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

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed by their respective officers thereunto duly authorized, as of the date and year first above written.

FIRST SECURITY BANK, NATIONAL ASSOCIATION, not in its individual capacity except as specifically provided herein, and otherwise solely as Owner Trustee

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

WILMINGTON TRUST COMPANY,  
as the Indenture Trustee

By: David A. Vanaskey  
Name: David A. Vanaskey  
Title: Assistant Vice President

EXHIBIT A

(to Trust Indenture and Security Agreement)

THIS NOTE (DEFINED BELOW) HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAWS. THE TRANSFER OF THE INTEREST REPRESENTED BY THIS NOTE IS SUBJECT TO CERTAIN RESTRICTIONS AND CONDITIONS SET FORTH IN THE INDENTURE PURSUANT TO WHICH THIS NOTE IS ISSUED (COPIES OF WHICH ARE AVAILABLE FROM PRUDENTIAL SECURITIES INCORPORATED).

THE HOLDER OF THIS NOTE BY ITS ACCEPTANCE HEREOF AGREES NOT TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE EXCEPT TO A PERSON IT REASONABLY BELIEVES (BASED UPON SUCH PERSON'S DELIVERY TO THE INDENTURE TRUSTEE OF AN INVESTOR LETTER IN THE FORM ATTACHED TO THE INDENTURE) IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A.

\_\_\_% LIMITED RECOURSE SECURED NOTE-[A]  
Due January 6, 2018

No [    ]  
\$[ \_\_\_\_\_ ]

PPN No. 33632\*TG2  
October \_\_, 1998

FIRST SECURITY BANK, NATIONAL ASSOCIATION, not in its individual capacity but solely as owner trustee (the "Borrower") hereby promises to pay to Prudential Securities Incorporated, or registered assigns, the principal sum of \$[ \_\_\_\_\_ ] in lawful currency of the United States of America, in installments payable on the dates set forth in Annex A hereto, commencing January 6, 1999 and thereafter to and including January 6, 2018, each such installment to be in the amount equal to the product of the original principal amount of this Note multiplied by the percentage set forth under the column headed "Principal %" of Annex A hereto for each such date, together with interest thereon on the amount of such principal amount remaining unpaid, from time to time from and including the date hereof until such principal amount shall be due and payable thereafter to the maturity date hereof at the rate of [    ]% per annum (computed on the basis of a 360-day year of twelve 30-day months). Interest on any overdue principal and (to the extent legally enforceable) on overdue interest shall be paid from the due date thereof at a rate equal to the Overdue Rate.

This Note is one of the Borrower's Limited Recourse Secured Notes-[A], due January 6, 2018 (the "Notes") which are equally and ratably secured by the Trust Indenture and Security

Agreement-[A] dated as of October 23, 1998 (the "Indenture"; capitalized terms not otherwise defined herein having the meanings set forth therein) between the Borrower and Wilmington Trust Company (the "Indenture Trustee"). Reference is hereby made to the Indenture for a description of the property subject thereto, the nature and extent of the security for the Notes, the rights of the holders of the Notes, the Indenture Trustee and the Borrower in respect of such security and otherwise and certain rights of the Borrower, including the right to prepay the Notes, and the terms upon which the Notes are to be authenticated and delivered. As provided in the Indenture, the aggregate principal amount of the Notes which may be issued under the Indenture shall not exceed \$22,985,892.78.

Payments with respect to the principal amount hereof, the Indenture Make Whole Amount, if any, and interest thereon shall be payable in U.S. dollars in immediately available funds at the account designated in writing to the Borrower by the Indenture Trustee. Each such payment shall be made on the date such payment is due and without any presentment or surrender of this Note. Whenever the date scheduled for any payment to be made hereunder or under the Indenture shall not be a Business Day, then such payment need not be made on such scheduled date but may be made on the next succeeding Business Day with the same force and effect as if made on such scheduled date and (provided such payment is made on such next succeeding Business Day) no interest shall accrue on the amount of such payment from and after such scheduled date to the time of such payment on such next succeeding Business Day.

Each holder hereof, by its acceptance of this Note, agrees that each payment received by it hereunder shall be applied, first, to the payment of accrued but unpaid interest on this Note then due, second, to the payment of the unpaid principal amount of this Note then due, third, to the payment of Indenture Make Whole Amount then due thereon, if any, and fourth, to the payment of the remaining outstanding principal amount of this Note; provided, that the Borrower may only prepay this Note as provided in Sections 2.10 and 3.2 of the Indenture.

Each holder hereof, by its acceptance of this Note, agrees that (i) it will not transfer this Note to the Lessee or any Affiliate thereof, (ii) it will only transfer this Note in compliance with the restrictions on transfers in Section 2.7 of the Indenture and (iii) the holder of this Note is subject to the terms of the Indenture applicable to Noteholders, including, without limitation, Section 4.5 thereof.

This Note is not subject to redemption or prepayment except as provided in Sections 2.10 and 3.2 of the Indenture. The holder hereof, by its acceptance of this Note, agrees to be bound by said provisions.

This Note is a registered Note and is transferable, as provided in the Indenture, only upon surrender of this Note for registration of transfer duly endorsed by, or accompanied by a written statement of transfer duly executed by, the registered holder hereof or his attorney duly authorized in writing. Prior to the due presentation for registration of transfer of this Note, the Borrower and

the Indenture Trustee shall deem and treat the registered holder of this Note as the absolute owner and holder hereof for the purpose of receiving payment of all amounts payable with respect hereto and for all other purposes and shall not be affected by any notice to the contrary.

All payments of principal, interest and Indenture Make Whole Amount, if any, to be made hereunder and under the Indenture shall be made only from the income and proceeds from the Indenture Estate and only to the extent that the Indenture Trustee shall have sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Article III of the Indenture. Each holder hereof, by its acceptance of this Note, agrees that it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to the holder hereof as provided in the Indenture and that, except as expressly provided in the Note Purchase Agreement or the Indenture, none of the Borrower, the Beneficiary, the Indenture Trustee or their respective permitted successors and assigns is or shall be personally liable to the holder hereof for any amount payable under this Note or the Indenture or for any liability under the Note Purchase Agreement or the Indenture.

Unless the certificate of authentication hereon has been executed by or on behalf of the Indenture Trustee by manual signature, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed by one of its authorized officers as of the date hereof.

FIRST SECURITY BANK, NATIONAL ASSOCIATION, not in its individual capacity but solely as Owner Trustee

By: \_\_\_\_\_

Name:

Title:

**[FORM OF INDENTURE TRUSTEE'S CERTIFICATE  
OF AUTHENTICATION]**

This is one of the Notes referred to in the within-mentioned Indenture.

WILMINGTON TRUST COMPANY, as Indenture  
Trustee

By: \_\_\_\_\_

Name of Authorized Officer:

Title:

EXHIBIT B  
(to Trust Indenture and Security Agreement)

**Form of Transferee Representation Letter**

Wilmington Trust Company  
1100 North Market Square  
Rodney Square North  
Wilmington, DE 19890

Attention: Corporate Trust Administration

Transfer of First Security Bank, National Association  
Limited Recourse Secured Notes-[A]  
Due January 6, 2018

Ladies and Gentlemen:

This letter is delivered pursuant to Section 2.7 of the Trust Indenture and Security Agreement-[A], dated as of October 23, 1998 (the "Indenture"), between First Security Bank, National Association, not in its individual capacity but solely as Owner Trustee (the "Borrower") and Wilmington Trust Company, as Indenture Trustee (the "Indenture Trustee"), on behalf of the holders of the Borrower's Limited Recourse Secured Notes-[A] (the "Notes"), in connection with the transfer by \_\_\_\_\_ (the "Seller") to the undersigned (the "Transferee") of \$ \_\_\_\_\_ aggregate original principal amount of Notes, in fully registered form (such registered interest being the "Transferred Interest"). Terms used but not defined herein shall have the meanings ascribed thereto in Annex I to the Indenture.

In connection with such transfer, the undersigned hereby represents and warrants to you as follows:

- (a) The Transferee will not sell or otherwise transfer any portion of the Transferred Interest, except in compliance with the Indenture.
- (b) The Transferee represents and warrants that (i) it is not the Lessee or an Affiliate of the Lessee, (ii) the representations and warranties in Schedule I attached hereto are true and correct as of the date hereof and (iii) the Transferee is not a "Restricted Assignee" as identified on Schedule II attached hereto. The Transferee acknowledges and agrees that (x) the foregoing representations and warranties in this section (b) are also made for the benefit of the Borrower and (y) the Borrower may rely on such representations and warranties as if the same had been made directly to the Borrower.

(c) The Transferee acknowledges that the Notes are subject to all of the terms and conditions of the Indenture and the Note Purchase Agreement applicable to the Notes and that the Transferee is bound by Section 4.5 of the Indenture. This letter is made for the benefit of, and may be relied on by the Indenture Estate, the Indenture Trustee, all Noteholders present and future, the Borrower, the Beneficiary and the Lessee.

(d) The Transferee acknowledges that Section 2.12 of the Indenture authorizes or requires the Indenture Trustee to withhold from payments on the Notes certain amounts in respect of taxes.

(e) Check one of the following representations applicable to the Transferee\* (checking one of the paragraphs below constitutes the making of a representation by the Transferee):

The Transferee is a "United States Person" and it has attached hereto a duly completed and executed Internal Revenue Service ("IRS") Form W-9 (or successor form).

The Transferee is not a "United States Person" and under applicable law in effect on the date hereof, no taxes will be required to be withheld by the Indenture Trustee (or its agent) with respect to payments to be made on the Note(s). The Transferee has attached hereto (i) a duly completed and executed IRS Form W-8 (or successor form), which identifies such Transferee as the beneficial owner of the Note(s) and states that such Transferee is not a United States Person, and such transferee hereby certifies, if it is relying on the "portfolio interest" exception of Section 871(h) or 881(c) of the Code, that it is not a bank for purposes of Section 881(c) of the Code, is not a 10-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 864(d) of the Code), (ii) a duly completed and executed IRS Form 4224 (or successor form), which identifies such Transferee as receiving income under the Notes as effectively connected income with a trade or business in the United States, or (iii) a duly completed and executed IRS Form 1001 (or successor form), which identifies the Transferee as the beneficial owner of the Note(s) and states that such Transferee is entitled to a complete exemption from withholding by reason of an income tax treaty or convention with the United States. The Transferee agrees to provide to the Indenture Trustee updated IRS Forms W-8, 4224 and 1001, any applicable successor IRS forms, or such other certifications as the Indenture Trustee may reasonably request, on or before the date that any such IRS form or certification expires or becomes obsolete, or promptly after the occurrence of any event requiring a change in the most recent IRS form or certification furnished by it to the Indenture Trustee.

The Transferee is not a "United States Person" and under applicable law in effect on the date hereof, a reduced amount of taxes will be required to be withheld. The Transferee has attached hereto a duly completed IRS Form 1001 (or successor form), which identifies the Transferee

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\* Each Transferee must include one of the three alternative certifications.

as the beneficial owner or the Note(s) and states that such Transferee is entitled to a reduced rate of withholding by reason of an income tax treaty or convention with the United States.

For this purpose, "United States Person" means a Person that is (i) a citizen or resident of the United States, (ii) a corporation, partnership or other entity created or organized in, or under the laws of, the United States or any political subdivision thereof (unless in the case of a partnership Treasury Regulations provide otherwise), (iii) an estate whose income from sources without the United States is includible in gross income for United States federal income tax purposes regardless of its connection with the conduct of a trade or business within the United States, or (iv) a trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust, all within the meaning of Section 7701(a) of the Code. The term "Code" means the Internal Revenue Code of 1986, as amended.

(f) The Transferee is an entity that is a "qualified institutional buyer" as defined in Rule 144A promulgated under the Securities Act. The Transferee acknowledges and agrees that (x) the foregoing representation in this section (f) is also made for the benefit of the Borrower and (y) the Borrower may rely on such representation as if the same had been made directly to the Borrower.

Please make all payments due on the Notes\*\*:

— (a) by wire transfer to the following account at a bank or entity in New York, New York, having appropriate facilities therefor:

Account number: \_\_\_\_\_ Institution \_\_\_\_\_

— (b) by mailing a check or draft to the following address.

Very truly yours,

\_\_\_\_\_  
[The Transferee]

By: \_\_\_\_\_

Name:

Title:

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

\*\* Please select (a) or (b).

## SCHEDULE I

### ERISA representations

ERISA. The Transferee [is] [is not] an Accredited Investor (as defined in the Indenture). One of the following statements concerning each source of funds to be used by it to purchase the Notes is accurate as of the date of such purchase:

(1) no part of the funds to be used by it for purchase of the Notes (including a participating interest therein) directly or indirectly constitutes, or may be deemed under ERISA or Section 4975 of the Code or any rulings or regulations thereunder to be, the assets of any employee benefit plan; or

(2) the funds to be used by it for purchase of the Notes directly or indirectly constitute the assets of an insurance company pooled separate account, as such term is used in Prohibited Transaction Class Exemption 90-1 issued by the U.S. Department of Labor, or a "collective investment fund," as defined in Section IV of Prohibited Transaction Class Exemption 91-38 issued by the U.S. Department of Labor, in which an employee benefit plan subject to ERISA or Section 4975 of the Code has an interest no employee benefit plan or group of employee benefit plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund, as the case may be, or;

(3) the funds to be used by it for the purchase of the Notes are invested in an "investment fund" which is managed by a "Qualified Professional Asset Manager" as each such term is defined in Prohibited Transaction Class Exemption 84-14 issued by the U.S. Department of Labor; or

(4) the funds to be used by it for purchase of the Notes directly or indirectly constitute or may be deemed under applicable state law to be, the assets of an employee benefit plan that is a "governmental plan" (as defined in Section 414(d) of the Code) or a "church plan" (as defined in Section 414(e) of the Code) that is not subject to ERISA or Section 4975 of the Code; or

(5) the funds to be used by it for purchase of the Notes directly or indirectly constitute general account assets of an insurance company, and the amount of the reserves and liabilities for the general account contract(s) held by or on behalf of any employee benefit plan (as defined by the annual statement for life insurance companies approved by the National Association of Insurance Commissioners (the "NAIC Annual Statement")) together with the amount of the reserves and liabilities for the general account contract(s) held by or on behalf of any other employee benefit

plans maintained by the same employer (or affiliate thereof as defined in Section v(a)(1) of Prohibited Transaction Class Exemption 95-60 issued by the United States Department of Labor ("PTCE 95-60")) or by the same employee organization, as defined by the NAIC Annual Statement, in the general account do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) plus surplus as set forth in the NAIC Annual Statement filed with the state of domicile of the insurance company, such percentage being determined as set forth in Section I of PTCE 95-60.

As used in this Exhibit A, the term "employee benefit plan" shall have the meaning assigned to it in ERISA.

SCHEDULE II

**RESTRICTED ASSIGNEES**

Citibank NA  
ABN Amro  
Chase Manhattan Bank  
Société Generale  
Deutsche Bank  
NationsBank  
First Chicago  
First Union  
Mellon Bank  
Corestates Bank  
First National Bank of Maryland  
PNC  
The Bank of New York  
Bank of Boston  
1st Security  
Key Bank  
Fleet  
Mitsubishi/Bank of Tokyo  
JP Morgan Investment Mgmt  
NY Life Insurance  
Standish Ayer & Wood  
State Farm Insurance Companies  
Amex/IDS  
Rellastar  
American General  
Brinson Partners Inc.  
Travelers Insurance  
Bradford Marzeck Inc.  
Northwestern Mutual Life  
J.P. Morgan Bank

## ANNEX I -- DEFINITIONS

See Annex I to the Note Purchase Agreement.

ANNEX A  
(Trust Indenture and Security Agreement)

Amortization Schedule  
Limited Recourse Secured Notes-[A]

[As percentage of Principal Amount]

[See Annex A to the Notes]

SCHEDULE 1

Equipment Description



SCHEDULE 1

Manufacturer	Model	Specifications	Serial Number	Car Marks	Equipment Cost per Unit
42 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10097	MLLX: 10097	63,215.00
43 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10098	MLLX: 10098	63,215.00
44 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10099	MLLX: 10099	63,215.00
45 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10101	MLLX: 10101	63,215.00
46 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10103	MLLX: 10103	63,215.00
47 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10105	MLLX: 10105	63,215.00
48 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10106	MLLX: 10106	63,215.00
49 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10107	MLLX: 10107	63,215.00
50 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10109	MLLX: 10109	63,215.00
51 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10112	MLLX: 10112	63,215.00
52 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10113	MLLX: 10113	63,215.00
53 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10116	MLLX: 10116	63,215.00
54 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10120	MLLX: 10120	63,215.00
55 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10121	MLLX: 10121	63,215.00
56 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10123	MLLX: 10123	63,215.00
57 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10124	MLLX: 10124	63,215.00
58 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10125	MLLX: 10125	63,215.00
59 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10126	MLLX: 10126	63,215.00
60 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10127	MLLX: 10127	63,215.00
61 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10128	MLLX: 10128	63,215.00
62 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10129	MLLX: 10129	63,215.00
63 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10130	MLLX: 10130	63,215.00
64 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10131	MLLX: 10131	63,215.00
65 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10132	MLLX: 10132	63,215.00
66 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10133	MLLX: 10133	63,215.00
67 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10134	MLLX: 10134	63,215.00
68 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10139	MLLX: 10139	63,215.00
69 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10142	MLLX: 10142	63,215.00
70 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10143	MLLX: 10143	63,215.00
71 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10146	MLLX: 10146	63,215.00
72 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10149	MLLX: 10149	63,215.00
73 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10150	MLLX: 10150	63,215.00

4,614,695.00







SCHEDULE 1-2

Manufacturer	Model	Specifications	Serial Number	Car Marks	Equipment Cost per Unit
124 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10279	MLLX: 10279	63,215.00
125 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10280	MLLX: 10280	63,215.00
126 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10281	MLLX: 10281	63,215.00
127 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10283	MLLX: 10283	63,215.00
128 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10274	MLLX: 10274	63,215.00
129 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10275	MLLX: 10275	63,215.00
130 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10282	MLLX: 10282	63,215.00
131 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10284	MLLX: 10284	63,215.00
132 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10285	MLLX: 10285	63,215.00
133 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10286	MLLX: 10286	63,215.00
134 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10287	MLLX: 10287	63,215.00
135 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10288	MLLX: 10288	63,215.00
136 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10289	MLLX: 10289	63,215.00
137 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10290	MLLX: 10290	63,215.00
138 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10271	MLLX: 10271	63,215.00
139 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10291	MLLX: 10291	63,215.00
140 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10292	MLLX: 10292	63,215.00
141 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10294	MLLX: 10294	63,215.00
142 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10295	MLLX: 10295	63,215.00
143 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10296	MLLX: 10296	63,215.00

TOTAL:

9,039,745.00





SCHEDULE 1-3

Manufacturer	Model	Specifications	Serial Number	Car Marks	Equipment Cost per Unit
83 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10337	MLLX: 10337	63,215.00
84 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10338	MLLX: 10338	63,215.00
85 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10339	MLLX: 10339	63,215.00
86 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10340	MLLX: 10340	63,215.00
87 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10341	MLLX: 10341	63,215.00
88 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10343	MLLX: 10343	63,215.00
89 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10344	MLLX: 10344	63,215.00
90 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10345	MLLX: 10345	63,215.00
91 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10347	MLLX: 10347	63,215.00
92 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10348	MLLX: 10348	63,215.00
93 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10349	MLLX: 10349	63,215.00
94 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10350	MLLX: 10350	63,215.00
95 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10351	MLLX: 10351	63,215.00
96 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10352	MLLX: 10352	63,215.00
97 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10353	MLLX: 10353	63,215.00
98 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10355	MLLX: 10355	63,215.00
99 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10356	MLLX: 10356	63,215.00
100 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10357	MLLX: 10357	63,215.00
101 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10358	MLLX: 10358	63,215.00
102 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10359	MLLX: 10359	63,215.00
103 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10360	MLLX: 10360	63,215.00
104 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10361	MLLX: 10361	63,215.00
105 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10362	MLLX: 10362	63,215.00
106 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10363	MLLX: 10363	63,215.00
107 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10364	MLLX: 10364	63,215.00
108 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft Pellet Hopper Car	10365	MLLX: 10365	63,215.00

Total:

6,827,220.00







						Equipment Cost per Unit	
Manufacturer	Model	Specifications	Serial Number	Car Marks	Cost		
133 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10509	MLLX: 10509	63,215.00		
134 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10511	MLLX: 10511	63,215.00		
135 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10513	MLLX: 10513	63,215.00		
136 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10526	MLLX: 10526	63,215.00		
137 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10527	MLLX: 10527	63,215.00		
138 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10530	MLLX: 10530	63,215.00		
139 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10531	MLLX: 10531	63,215.00		
140 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10532	MLLX: 10532	63,215.00		
141 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10534	MLLX: 10534	63,215.00		
142 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10535	MLLX: 10535	63,215.00		
143 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10536	MLLX: 10536	63,215.00		
144 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10545	MLLX: 10545	63,215.00		
145 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10548	MLLX: 10548	63,215.00		
146 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10550	MLLX: 10550	63,215.00		
147 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10556	MLLX: 10556	63,215.00		
148 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10557	MLLX: 10557	63,215.00		
149 National Steel Car Limited	Plastic Pellet Hopper Car	110 Ton, 6,245 cu. ft. Pellet Hopper Car	10558	MLLX: 10558	63,215.00		
TOTAL:					9,419,035.00		

ANNEX I  
Trust Indenture and Security  
Agreement-[A] and Note Purchase Agreement-[A]

**DEFINITIONS-[A]**

**GENERAL PROVISIONS**

Defined terms used in the Trust Indenture and Security Agreement-[A] or the Note Purchase Agreement-[A] without definition shall have the meanings specified in the Lease or in this Annex I. Unless the context otherwise requires, (a) references to agreements shall be deemed to mean and include such agreements as the same may be amended, supplemented and otherwise modified from time to time, and (b) references to parties to agreements shall be deemed to include the successors and permitted assigns of such parties.

“Accredited Investor” shall have the meaning specified in Regulation D promulgated under the Securities Act of 1933, as amended.

“Affiliate” shall mean, as to any Person, any other Person controlling, controlled by, or under common control with, such Person.

“Basic Rent” shall mean the amount specified as “Basic Rent” in the Lease Schedule.

“Beneficiary” shall mean Pitney Bowes Credit Corporation and its successors and assigns. All references to PBCC shall be deemed to include “Pitney Bowes” and its successors and assigns and vice versa.

“Beneficiary Letter” shall mean the letter from the Beneficiary to the Indenture Trustee dated the Closing Date.

“Bill of Sale” shall mean each Lessee Bill of Sale and each Manufacturer Bill of Sale.

“Borrower” shall mean FSB, not in its individual capacity but solely as Owner Trustee, and its successors and assigns under the Indenture.

“Borrower Obligations” shall have the meaning specified in the granting clause of the Indenture.

"Business Day" shall mean any day other than a Saturday, Sunday or day on which banks in New York City, New York, Wilmington, Delaware, Salt Lake City, Utah, or Connecticut are authorized or required by law to close.

"Closing Date" shall mean October 23, 1998.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Equipment" shall have the meaning specified in the Lease and the Lease Schedule.

"Equipment Cost" shall have the meaning specified in the Lease and the Lease Schedule.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor law.

"ERISA Affiliate" shall mean any corporation, trade or business that is a member of a controlled group of corporations or a controlled group of trades or businesses, as described in Sections 414(b) and 414(c), respectively, of the Code or Section 4001 of ERISA.

"Excepted Property" shall mean (a) all indemnity payments and expenses pursuant to Sections 14 and 17 of the Lease to which the Borrower or beneficiary or any of their respective successors, permitted assigns, directors, officers, employees, servants and agents is entitled pursuant to the Operative Documents but only to the extent not paid to compensate the Borrower or the Beneficiary for damage, loss of value and similar items with respect to the Equipment, (b) any insurance proceeds payable by its express terms to or on behalf of the Borrower or the Beneficiary under any public liability insurance maintained by the Lessee pursuant to Exhibit G to the Lease or by any other Person (including amounts paid by the Lessee under deductibles or self-insurance solely with respect thereto); provided, however, that notwithstanding anything to the contrary contained in this clause (b), if (i) the Borrower, the Beneficiary and the Indenture Trustee shall each file claims under such public liability insurance and (ii) the aggregate amounts payable thereunder shall not be sufficient to pay in full the claims of each of the Borrower, the Beneficiary and the Indenture Trustee, then Excepted Property shall include only the amount of proceeds of such public liability policy in excess of the amount of proceeds required to pay the claim of the Indenture Trustee in full, and (c) any rights of the Borrower and the Beneficiary to demand, collect, sue for, or otherwise receive and enforce payment of the foregoing amounts, provided such rights shall not include the exercise of any remedies under the Lease other than the right to proceed by appropriate court action or actions, either at law or in equity, to recover monetary damages for the breach thereof.

"FSB" shall mean First Security Bank, National Association, in its individual capacity and not as Owner Trustee.

Amendment, including all exhibits and schedules and the Lease Schedule, as such agreement and exhibits and schedules may be extended, amended or supplemented from time to time.

“Lease Amendment” shall mean the Amendment No. 1 to Master Equipment Lease Agreement-[A], dated as of the Closing Date, between the Lessor and Lessee.

“Lease Schedule” shall mean the Restated Schedule to the Lease pursuant to Section 14 of Exhibit B to the Lease and the schedules and riders attached thereto, as such Schedule may be extended, amended or supplemented from time to time.

“Lease Default” shall mean a Lease Event of Default or an event which with notice or lapse of time or both would become a Lease Event of Default.

“Lease Event of Default” shall mean an Event of Default under the Lease as specified in Section 24 thereof.

“Lessee” shall mean Montell USA Inc., a Delaware corporation, and its successors and assigns under the Lease.

“Lessee Acknowledgment and Estoppel” shall mean the Lessee Acknowledgment and Estoppel-[A] dated as of the Closing Date.

“Lessee Bill of Sale” shall mean each bill of sale executed by the Lessee in favor of the Lessor.

“Lessor” shall mean First Security Bank, National Association, and its successors and assigns under Lease.

“Lessor's Liens” shall mean any Liens arising as a result of (i) claims against or affecting the Lessor not related to the transactions contemplated by the Operative Documents, or (ii) acts or omissions of the Lessor not related to the transactions contemplated by the Operative Documents or not permitted by the Operative Documents, or (iii) taxes imposed against Lessor which are not indemnified against by the Lessee pursuant to the Lease or any other Operative Document or (iv) claims against the Lessor arising out of the voluntary transfer (which transfer shall be made without the consent, whether or not required, of Lessee) of all or any part of its interest in the Equipment, other than a transfer pursuant to Section 22 of the Lease and other than a transfer made while an Event of Default under the Lease has occurred or is continuing.

“Lien” shall mean any mortgage, deed of trust, pledge, lien, security interest, charge or other encumbrance or security arrangement of any nature whatsoever including, but not limited to, any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security.

“Operative Documents” shall mean the Lease, the Bills of Sale, the Guaranty Agreement, the Lease Acceptance Certificates, the Lease Schedule, the Trust Agreement, the Purchase Agreement Assignment and the Beneficiary’s Agreement.

“Overdue Rate” shall mean a rate equal to the lower of 1<sup>1/2</sup>% per month or the highest legal contract rate of interest.

“Owner Trustee” shall mean FSB, in its capacity as Owner Trustee under the Trust Agreement.

“Parent Guarantor Acknowledgment and Estoppel” shall mean the Parent Guarantor Acknowledgment and Estoppel-[A], dated as of the Closing Date, executed by the Guarantor.

“Payment Date” shall mean the payment dates specified in the on Annex A of the Indenture.

“PBGC” means the Pension Benefit Guaranty Corporation and any entity succeeding to any or all of its functions under ERISA.

“Person” shall mean an individual, partnership, corporation, trust, association or unincorporated organization, and a government or agency or political subdivision thereof.

“Plan” and “Plans” shall mean any employee benefit plan as defined in Section 3(3) of ERISA, excluding a Multiemployer Plan, established or maintained for the benefit of employees of the Authority or Pitney Bowes or ERISA Affiliates.

“Refunding Documents” shall the Note Purchase Agreement, the Indenture, the Lessee Acknowledgment and Estoppel, the Parent Guarantor Acknowledgment and Estoppel, the Beneficiary Letter, the Fee Agreements, the Notes, and any other instruments or documents now or hereafter entered into in connection therewith (including, without limitation, the documents listed in Section 2.1(a) of the Note Purchase Agreement).

“Rent” shall mean Basic Rent and Supplemental Rent.

“Register” shall have the meaning specified in Section 2.7 of the Indenture.

“Reportable Event” shall mean a “reportable event” as described in Section 4043 of ERISA for which the notice requirement to the PBGC has not been waived (provided that the loss of qualification of a Plan and the failure to meet the minimum funding standard of Section 412 of the Code or Section 302 of ERISA shall be a Reportable Event regardless of the issuance of any waiver of the reporting requirement by the PBGC).

“Responsible Officer” shall mean, with respect to the subject matter of any covenant, agreement or obligation of any party contained in any Transaction Documents, the President, or any Vice President, Assistant Vice President, Treasurer, Assistant Treasurer or other officer.

“Specified Investments” shall mean (a) direct obligations of the United States of America and agencies thereof for which the full faith and credit of the United States is pledged and (b) obligations fully guaranteed by the United States of America, provided that no investment shall be eligible as a “Specified Investment” unless the final maturity or date of return of such investment is 91 days or less from the date of purchase thereof.

“Supplemental Rent” shall mean all amounts payable by the Lessee to the Lessor under the Lease other than Basic Rent.

“10-Day Period” shall have the meaning specified in Section 4.4(a)(ii) of the Indenture.

“Transaction Documents” shall mean, collectively, the Operative Documents and the Refunding Documents.

“Trust Agreement” shall mean the Trust Agreement-[A], dated as of April 27, 1998, between FSB and the Beneficiary.

“Uniform Commercial Code” shall mean the Uniform Commercial Code in effect from time to time in the relevant jurisdiction.

“Unit” shall mean each item constituting Equipment under the Lease.

“United States Person” shall mean a Person that is (i) a citizen or resident of the United States, (ii) a corporation, partnership or other entity created or organized in, or under the laws of, the United States or any political subdivision thereof (unless in the case of a partnership Treasury Regulations provide otherwise), (iii) an estate whose income from sources without the United States is includible in gross income for United States federal income tax purposes regardless of its connection with the conduct of a trade or business within the United States, or (iv) a trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust, all within the meaning of Section 7701(a) of the Code.

District of Columbia     )  
  )  
City of Washington        )     ss:

I, KIM L. BARTMAN, Notary for the District of Columbia, hereby certify that the attached "Trust Indenture and Security Agreement-[A]", dated as of October 23, 1998 between First Security Bank, as Borrower, and Wilmington Trust Company, as Indenture Trustee, is a true and complete copy of the original thereof.

Certified this 26th day of October, 1998.



*Kim L. Bartman*  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 3-31-2000