CERTAIN RIGHTS OF LESSOR UNDER THIS LEASE OF RAILROAD EQUIPMENT HAVE BEEN ASSIGNED AS SECURITY TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR OF, FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE UNDER THE TRUST INDENTURE AND SECURITY AGREEMENT DATED AS OF THE DATE HEREOF AMONG LESSOR AND INDENTURE TRUSTEE, FOR THE BENEFIT OF LOAN PARTICIPANT. THIS LEASE HAS BEEN EXECUTED IN SEVERAL COUNTER-PARTS. ONLY THE ORIGINAL COUNTERPART MARKED "ORIGINAL COUNTERPART NO. 1" AND BEARING THE RECEIPT THEREFOR EXECUTED BY FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE, ON THE SIGNATURE PAGE THEREOF SHALL CONSTITUTE CHATTEL PAPER WITHIN THE MEANING OF THE UNIFORM COMMERCIAL CODE. SEE SECTION 24 HEREOF FOR INFORMATION CONCERNING THE RIGHTS OF INDENTURE TRUSTEE OF THE VARIOUS COUNTERPARTS OF THIS LEASE OF RAILROAD EQUIPMENT.

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INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT

Dated as of June 15, 1994

between

WILMINGTON TRUST COMPANY,

not in its individual capacity, but solely as
Owner Trustee
as Lessor

and

NATIONAL RAILROAD PASSENGER CORPORATION,
Lessee

AMTRAK TRUST 94-D

SUPERLINER II PASSENGER CARS

NOTICE IS HEREBY GIVEN TO ALL CONTRACTORS, SUBCONTRACTORS, LABORERS, MATERIALMEN AND OTHER PERSONS THAT LESSOR WILL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED TO LESSEE AND THAT NO LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT LESSOR'S INTEREST IN THE UNITS.

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LEASE OF RAILROAD EQUIPMENT
(Amtrak Trust 94-D)

THIS LEASE OF RAILROAD EQUIPMENT dated as of June 15, 1994 between WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual capacity but solely as Owner Trustee, as lessor, and NATIONAL RAILROAD PASSENGER CORPORATION (also known as Amtrak), a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia, as lessee.

WITNESSETH:

SECTION 1. INTERPRETATION

1.1 **Definitions**. Capitalized terms and phrases used and not otherwise defined herein shall for all purposes of this Lease have the respective meanings specified therefor in Annex A hereto.

1.2 **Rules of Interpretation**. The following rules apply to this Lease:

(i) the singular includes the plural and the plural includes the singular;

(ii) "*or*" is not exclusive and "*include*" and "*including*" are not limiting;

(iii) a reference to any agreement or other contract includes permitted supplements and amendments;

(iv) a reference to a law includes any amendment or modification to such law and any rules or regulations issued thereunder or any law enacted in substitution or replacement therefor;

(v) a reference to a person includes its permitted successors and assigns;

(vi) a reference herein to an Article, Section, Exhibit, Schedule or Appendix without further reference is to the relevant Article, Section, Exhibit, Schedule or Appendix of this Lease;

(vii) any right may be exercised at any time and from time to time;

(viii) all obligations are continuing obligations; and

(ix) the headings of the Articles, Sections and subsections are for convenience and shall not affect the meaning of this Lease.

SECTION 2. AGREEMENT TO LEASE; DELIVERY AND ACCEPTANCE

2.1 **Agreement to Lease**. Lessor and Lessee agree (subject to satisfaction or waiver by Lessor or Lessee, as the case may be, of the conditions precedent to its obligations set forth in Section 5 of the Participation Agreement) to subject each Unit to this Lease for the rent and upon and subject to the terms and conditions herein set forth, for the Lease Term with respect to such Unit, commencing on the date of delivery of a fully executed Lease Supplement with respect to such Unit.

2.2 **Delivery and Acceptance**. Upon delivery by Lessor and Lessee of a fully executed Lease Supplement, the Units described therein shall be deemed to have been delivered to and accepted by Lessee for all purposes of this Lease and thereupon shall be subject to all the terms and conditions of this Lease. Lessee's execution and delivery of a Lease Supplement shall be conclusive proof that the Units listed therein have been subjected to this Lease on the terms hereof, notwithstanding any defect with respect to the design, manufacture, condition or any other matter or the failure of any of the Units to comply with the specifications applicable thereto or with any applicable United States Department of Transportation or ICC requirements and specifications or AAR recommended standards for new railroad equipment of the character of the Equipment as of the date hereof.

SECTION 3. INTERIM TERM AND BASE LEASE TERM

The Interim Term for any Unit shall commence on the Delivery Date therefor and shall extend to (but not include) the Base Lease Commencement Date for such Unit or such earlier date on which this Lease shall be terminated pursuant to the terms hereof with respect to such Unit. The Base Lease Term for any Unit shall commence on the Base Lease Commencement Date for such Unit and end on the Base Lease Expiration Date for such Unit, or such earlier date on which this Lease shall be terminated pursuant to the terms hereof with respect to such Unit.

SECTION 4. RENT

4.1 **Base Rent**.

(i) Base Rent During Interim Term. On the Base Lease Commencement Date for each Unit, Lessee shall pay to Lessor, as Base Rent for such Unit for the period from and including the Closing Date for such Unit to and excluding the Base Lease Commencement Date for such Unit an amount equal to the excess, if any, of (a) the Interim Amount over (b) such Interim Amount actually paid by Lessor on such Base Lease Commencement Date.

(ii) Base Rent During Base Lease Term. Lessee shall pay to Lessor, as Base Rent for each Unit, semi-annual installments of Base Rent on the Rent Payment Dates for such Unit during the Base Lease Term. Subject to adjustment as provided herein, the Base Rent due on a Rent Payment Date with respect to any Unit is equal to the product of (a) the applicable Rent

Factor for such Rent Payment Date and (b) Equipment Cost for such Unit. If any Rent Payment Date is also a Casualty Value Determination Date with respect to a Unit, such Unit shall be deemed to be subject to this Lease within the meaning of the definition of "*Equipment Cost*" for purposes of determining any Base Rent due on such date.

(iii) Minimum Payments. Notwithstanding anything to the contrary contained herein or in any other Operative Document, in all events and irrespective of any adjustment thereto, (a) each installment of Base Rent shall be at least in an amount such that, as and when received by Indenture Trustee, it shall be sufficient to pay the installment of principal and accrued interest in respect of all Secured Notes then Outstanding under the Indenture which is due on the Rent Payment Date of such installment of Base Rent, and (b) each amount of Casualty Value payable on a Casualty Value Determination Date, any payment of Special Purchase Price in connection with a purchase pursuant to Section 16.1, and each amount payable on any Termination Date with respect to a Voluntary Termination, together in each case with any Base Rent or Supplemental Rent due on such Date, shall be at least in an amount such that, as and when received by Indenture Trustee, Indenture Trustee shall have sufficient amounts remaining (after payment of all obligations having higher priority under the Indenture) to pay the full unpaid balance of principal and interest then due and payable in respect of the Secured Notes then Outstanding to be prepaid in accordance with the Indenture in connection with the applicable Casualty Occurrence, purchase or Voluntary Termination, as the case may be. Nothing in this Section 4.1(iii) shall be deemed to constitute a guarantee by Lessee of the indebtedness evidenced by the Secured Notes or a guarantee of the residual value of any Unit or an indemnity for any Taxes required to be deducted or withheld.

4.2 **Supplemental Rent**. In addition to its obligation to pay Base Rent or Renewal Rent hereunder, Lessee shall pay (or cause to be paid) Supplemental Rent to Lessor or to whomever shall be entitled thereto, as and when the same shall become due and owing in accordance with the provisions of the Operative Document that requires such payment. Lessee also agrees to pay to Lessor or such other Person as shall be entitled thereto with the payment to which it relates, without necessity of demand, as Supplemental Rent (i) to the extent permitted by applicable law, interest at the Overdue Rate on (a) any part of any installment of Base Rent or Renewal Rent, as the case may be, not paid when due for each day for which the same shall be overdue and (b) any payment of Supplemental Rent (other than such interest) not paid when due for each day for which the same shall be overdue, until the same shall be received by the party entitled thereto and (ii) any Make-Whole Amount in respect of the Secured Notes payable in connection with any provision of the Operative Documents, including without limitation, a mandatory prepayment under Section 6.02 of the Indenture or refunding pursuant to Section 14.8 of the Participation Agreement or a voluntary termination of the Lease pursuant to Section 26.1 hereof (except as expressly provided therein).

4.3 **Adjustments to Rent Factors, Special Purchase Price and Casualty Value Factors**. Subject to Section 4.1(iii), Rent Factors, Special Purchase Price and Casualty Value Factors shall be adjusted in accordance with Section 16 of the Participation Agreement.

4.4 **Manner of Making Payments; Payment to Indenture Trustee**. All payments pursuant to this Lease shall be made by noon Washington, D.C. time on the date payment is due in immediately available funds. Any payment not made on the date payment is due shall be payable with interest at the Overdue Rate as provided in Section 4.2. If any such date is not a Business Day, then payment shall be due on the next succeeding Business Day and if paid on such Business Day, such payment shall be without interest or penalty. All payments of Rent (other than Excepted Payments, which shall be paid by wire transfer to the Person entitled thereto) shall be paid by Lessee to Lessor at its office at Rodney Square North, 1100 North Market Street, Wilmington, Delaware 19890-0001, Re: Amtrak Trust 94-D or as Lessor may otherwise direct from time to time in writing; provided, that so long as the Indenture shall not have been discharged pursuant to Section 7.04 thereof, Lessor hereby directs, and Lessee agrees, that all payments of Rent and all other amounts payable to Lessor hereunder (other than Excepted Payments, which shall be paid to the Person entitled thereto) shall be paid by wire transfer or other commercially acceptable, generally used electronic medium directly to Indenture Trustee at 79 South Main Street, Salt Lake City, Utah 84111, Re: Amtrak Trust 94-D, or as Indenture Trustee may otherwise direct in a writing received by Lessee at least ten (10) Business Days prior to the applicable payment date.

SECTION 5. NET LEASE; NONTERMINABILITY

5.1 **Net Lease**. This Lease is a net lease, and, as between Lessee and Lessor, it is intended that Lessee shall pay all costs and expenses of every character, whether foreseen or unforeseen, ordinary or extraordinary, in connection with the Units, whether with respect to construction, delivery, ownership, use, possession, control, operation, maintenance, repair, insurance, improvement and return of the Units, or otherwise, including the costs and expenses particularly set forth in this Lease. All obligations of Lessee in this Lease shall be done, performed or complied with at Lessee's cost and expense, unless otherwise expressly stated.

5.2 **Nonterminability**.

(i) Each of Lessee's obligations to pay Rent hereunder shall be absolute and unconditional, and Lessee shall not be entitled to any abatement, deferral or suspension of Rent (except as provided in Section 9.6 of the Participation Agreement), reduction thereof or setoff against Rent, including abatements, reductions, deferrals, suspensions or setoffs due, or alleged to be due, by reason of any past, present or future claims of Lessee against Lessor, Owner Participant, Manufacturer, Indenture Trustee or any other Person, either under this Lease or otherwise; nor, except as otherwise expressly provided herein and on the terms hereof, shall this Lease terminate, or the obligations of Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any Liens or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the interference with such use by any Person (including confiscation, requisition or other taking by any governmental authority, any Person acting under governmental authority or otherwise, or action of any public or private Person, whether by eviction by paramount title or for any other reason whatsoever), the invalidity or unenforceability or lack of due authorization of this Lease or any other Operative Document,

any action or inaction by Lessor as lessor under this Lease, any defect in the title to, compliance with plans or specifications for, condition, design or fitness for use of all or any of the Units, any insolvency of or any bankruptcy, reorganization or other proceeding against Lessee, Lessor or any other Person, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention and agreement of the parties hereto, and the basis of the bargain, that (to the extent permitted by applicable law) Base Rent, Renewal Rent, Supplemental Rent and other amounts payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless and until the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease (in the case of any return of the Equipment to Lessor, any Unit shall not be deemed to have been returned to Lessor's possession until all of Lessee's obligations with respect to the return, transportation and arranging for storage thereof have been performed). To the extent permitted by applicable law, Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel or quit this Lease or surrender any of the Units except in accordance with the express terms hereof. Except as provided in the Tax Indemnity Agreement and Section 6 of the Participation Agreement with respect to certain payments of Supplemental Rent, each Base Rent, Renewal Rent, Supplemental Rent or other payment made by Lessee hereunder shall be final and Lessee shall not seek to recover all or any part of such payment (except for any excess payment made in manifest error) from Lessor, Owner Participant, Indenture Trustee or any holder or former holder of a Secured Note for any reason whatsoever.

(ii) Without limiting the generality of the foregoing, Lessee covenants that it will remain obligated under this Lease in accordance with the terms hereof and will not take any action to terminate (except in accordance with the express provisions hereof), rescind or avoid this Lease for any reason whatsoever.

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

(iv) Nothing in this Section 5.2 or in any other provision of this Lease shall preclude any separate, independent claim (other than by way of abatement or reduction of any amount at any time payable by Lessee hereunder) by Lessee for the breach of any representation, covenant, undertaking or agreement made herein and in any other Operative Document for the benefit of Lessee by Lessor or Owner Participant.

SECTION 6. IDENTIFICATION MARKS

Lessee will cause each Unit to be kept numbered with the road number and serial number as shall be set forth in any Lease Supplement hereto extending this Lease to cover such Unit. Lessee shall not allow the name of any other Person to be placed on any Unit as a designation that might be identified as a claim of ownership or any other interest therein; provided, however, that nothing herein contained shall prohibit Lessee or its permitted sublessees from placing its name, customary colors and insignia on any Unit or from naming each Unit.

Lessee will not change the identification number of any Unit unless and until (i) a statement of a new number or numbers to be substituted therefor shall have been delivered to Indenture Trustee, Owner Participant and Lessor and filed, recorded and deposited by Lessee in all appropriate public offices, including the public offices where this Lease and the Indenture shall have been filed, recorded and deposited and (ii) Lessee shall have furnished to Indenture Trustee and Lessor, an opinion of counsel in form and substance reasonably satisfactory to Indenture Trustee and Lessor to the effect that such statement has been so filed, recorded and deposited, that such filing, recordation and deposit will protect Lessor's interest in the Units, the security interests of Indenture Trustee under the Indenture and that no other filing, recording, deposit or giving of notice to any Instrumentality or other Governmental Authority is necessary to protect such interests.

SECTION 7. CASUALTY

7.1 **Notice; Elections**. Lessee shall notify Lessor, Indenture Trustee and Owner Participant (a) promptly of the occurrence of any casualty or damage to any Unit resulting in estimated repair costs in excess of $250,000, (b) within ninety (90) days of any such occurrence of such casualty or damage of Lessee's determination that a Casualty Occurrence has occurred, (c) promptly, but in no event later than five (5) Business Days of Lessee's determination that a Casualty Occurrence has occurred with respect to a Unit and, and (d) within thirty (30) days after such determination whether Lessee intends to proceed in accordance with Section 7.2 or 7.3; provided, however, that Lessee's failure to provide such notice of election shall constitute an election to proceed in accordance with Section 7.3; and provided, further, that no election to proceed in accordance with Section 7.2 shall be effective if a Specified Default or a Lease Event of Default has occurred and is continuing.

7.2 **Substitution**.

(i) If pursuant to Section 7.1 Lessee shall have elected to proceed in accordance with this Section 7.2 with respect to a Unit that has suffered a Casualty Occurrence, Lessee shall not later than the 90th day following the date of such Casualty Occurrence convey or cause to be conveyed to Lessor a Replacement Unit, which shall immediately vest in Lessor, without further act or deed, free and clear of all Liens other than Permitted Liens, to be leased to Lessee hereunder. Lessee shall on the date of such conveyance deliver a Bill of Sale, in form and substance satisfactory to Lessor, for such Replacement Unit evidencing such conveyance.

(ii) Prior to or at the time of any substitution under Section 7.2(i), Lessee, at its own cost and expense, shall (a) cause a Lease Supplement and Indenture Supplement covering the Replacement Unit to be prepared and, promptly upon execution thereof by Lessor and Indenture Trustee, filed for recording with the ICC and in all other public offices where this Lease shall be filed, recorded or deposited, (b) furnish Lessor and Indenture Trustee with evidence of compliance with the provisions of Section 8 and Section 18 with respect to such Replacement Unit, including an opinion of counsel to the effect that such filings have been duly made and that a review of the records of the ICC shows no Lien with respect to such Unit other than Permitted Liens; and (c) cause a Uniform Commercial Code financing statement or statements covering the

Replacement Unit to be filed in such place or places as are deemed necessary or desirable by Lessor or Indenture Trustee to perfect their respective interests therein under the Operative Documents. In connection with such substitution, upon Lessee's compliance with the requirements of this Section, Lessee shall prepare and Lessor shall execute or forward to Indenture Trustee for execution, as the case may be, a release of the replaced Unit from the Lien of the Indenture (including Uniform Commercial Code amending statements).

(iii) Upon compliance by Lessee with the foregoing provisions of this Section 7.2, (a) Lessor shall promptly convey the replaced Unit to Lessee without recourse, representation or warranty as to any matter whatsoever except as to the absence of all Owner Participant's Liens and Lessor's Liens; (b) Lessee shall be subrogated to all claims of Lessor, if any, against third parties for damage to or loss of the replaced Unit to the extent of any casualty insurance proceeds received or receivable in respect of such Unit as a result of such Casualty Occurrence under insurance policies maintained by Lessee or any sub-sublessee; and (c) for all purposes hereof and the other Operative Documents, the Replacement Unit shall be deemed part of the property leased hereunder and shall be deemed a "*Unit*" as defined herein.

7.3 **Payment of Casualty Value**. If pursuant to Section 7.1 Lessee shall have elected or have been deemed to have elected to proceed in accordance with this Section 7.3 with respect to a Unit that has suffered a Casualty Occurrence, Lessee shall pay to Lessor, on the Casualty Value Determination Date with respect to such Unit or Units suffering a Casualty Occurrence, (A) the Casualty Value for such Unit determined in accordance with Section 7.5 as of such Casualty Value Determination Date, (B) any Supplemental Rent due on such Casualty Value Determination Date in respect of such Unit and (C) all other amounts due hereunder with respect to such Unit, including Base Rent due on or before such Casualty Value Determination Date (other than the advance portion of any Base Rent due on such Casualty Value Determination Date). The sum of the amounts described in clauses (A), (B) and (C) of the immediately preceding sentence, is hereinafter referred to as an "*Aggregate Casualty Payment*". Upon the making of such Aggregate Casualty Payment, the Base Rent for the applicable Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and Lessee shall be entitled to recover possession of such Unit. Lessor shall transfer to Lessee such right, title and interest, if any, as Lessor may have in such Unit, "as-is, where-is and with all faults" and without recourse, representation or warranty, express or implied, as to any matter whatsoever except that the Unit is free and clear of all Lessor's Liens and Owner Participant's Liens. If no Specified Default or Lease Event of Default shall have occurred and be continuing, then Lessee shall be entitled to receive and retain for its own account out of all condemnation or requisition payments paid in respect of such Unit up to an amount equal to the sum of (a) the Aggregate Casualty Payment (but only if such amount shall have been previously received by Lessor) and (b) deemed interest thereon at the Treasury Rate from the date of payment of such Aggregate Casualty Amount to Lessor to but excluding the date of receipt of such condemnation or requisition payments by Lessee, and if a Specified Default or a Lease Event of Default shall have occurred and be continuing all such payments shall be paid to Indenture Trustee (unless the Indenture has terminated in accordance with its terms) and otherwise to Lessor to be held as security for Lessee's obligations hereunder; provided, however, that unless earlier applied against such

obligations or this Lease shall have been declared in default in accordance with Section 13.1, any such payments shall be paid over to Lessee after one hundred eighty (180) days.

7.4 **Requisition Not Constituting a Casualty Occurrence**. In the event of the requisition for use of any Unit which does not, or does not yet, constitute a Casualty Occurrence hereunder, all of Lessee's obligations under this Lease with respect to such Unit (including the obligation to make all payments of Base Rent and Supplemental Rent) shall continue to the same extent as if such requisition had not occurred. All payments received by Lessor or Lessee from any Governmental Authority for the use of such Unit during the term of this Lease (other than a use of such Unit constituting a Casualty Occurrence) shall be paid over to, or retained by, Lessee if no Specified Default or Lease Event of Default shall have occurred and be continuing, and if a Lease Event of Default shall have occurred and be continuing all such payments shall be paid to Indenture Trustee (unless the Indenture has terminated in accordance with its terms) and otherwise to Lessor to be held as security for Lessee's obligations hereunder; provided, however, that unless earlier applied against such obligations, or the Lease shall have been declared in default in accordance with Section 13.1, any such payments shall be paid over to Lessee after one hundred eighty (180) days.

7.5 **Amount of Casualty Value**. Subject to Section 4.1(ii), during the Interim Term and the Base Term the "*Casualty Value*" for a Unit as of any Casualty Value Determination Date shall be (i) the Equipment Cost of such Unit multiplied by (ii) the applicable Casualty Value Factor for such Casualty Value Determination Date. The "*Casualty Value*" during Renewal Terms shall decrease on a straight-line basis from the Fair Market Value of the applicable Units on the first day of the Renewal Term to the Fair Market Value of such Units on the last day of the Renewal Term as determined in accordance with Section 16.4.

7.6 **No Release**. Except as provided in Section 7.3 with respect to the payment of Base Rent and Section 17, Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by Lessee hereunder.

SECTION 8. INSURANCE.

8.1 **Insurance to Be Maintained**.

(i) Subject to Section 8.1(ii), Lessee will, at all times prior to the return to Lessor of the Units pursuant to the terms hereof (and in any event while the Units are being collected for delivery to Lessor and as provided in Sections 14 and 17) and at Lessee's own expense (except as otherwise provided in Section 17), cause to the extent available on a commercially reasonable basis the following insurance to be carried and maintained with insurers of recognized standing who provide insurance to the railroad industry:

(a) "all risk" property insurance in respect of the Units and at not less than seventy-five million dollars per occurrence ("*Property Insurance*"); and

(b) liability insurance with respect to employers liability and third-party personal injury, death and property damage (including contractual liability insurance) and against such risks as is maintained by Lessee in respect of other passenger cars owned or leased by Lessee similar to the Units at not less than one hundred million dollars per occurrence ("*Liability Insurance*").

Lessee may self-insure (for purposes of this Section 8.1, "*self-insure*" and "*self-insurance*" shall mean uninsured risk, deductibles and co-insurance) such Units (1) in amounts no greater than (A) in the case of Property Insurance, the lesser of (x) the extent to which Lessee customarily self-insures passenger cars owned or leased by it and (y) fifteen million dollars per occurrence without the prior written consent of Lessor which consent shall not unreasonably be withheld; and (B) in the case of Liability Insurance, the lesser of (x) the extent to which Lessee customarily self-insures with respect to liability and (y) thirty million dollars per occurrence without the prior written consent of Lessor which consent shall not be unreasonably withheld and (2) in any case consistent with prudent industry practice for a railroad operating in intercity passenger service in the United States.

(ii) If any public liability insurance required by this Lease shall not be available to Lessee at renewal on substantially the same terms and conditions as then carried by Lessee and the obtaining of such insurance is, in Lessee's judgment, commercially impracticable, Lessee shall obtain a written report of an independent insurance advisor of recognized national standing, chosen by Lessee and reasonably acceptable by Lessor confirming in reasonable detail that such insurance, in respect of amount or scope of coverage, is not so available on a commercially practicable basis from insurers of recognized standing who provide insurance to the railroad industry. During any period with respect to which any public liability insurance is not so available, Lessee shall nevertheless maintain public liability insurance to the extent, with respect to amount and scope of coverage, it is available on a commercially practicable basis from insurers of recognized standing who provide insurance to the railroad industry. If any insurance which was previously discontinued because of its commercial unavailability later becomes available on a commercially practicable basis, Lessee shall reinstate such insurance.

(iii) Not later than forty-eight (48) hours prior to the expiration of any Liability Insurance or Property Insurance required to be carried hereunder, Lessee shall provide Lessor, Owner Participant and, so long as Secured Notes are outstanding, Indenture Trustee and each Additional Insured with certificates of insurance evidencing that such insurance has been replaced or renewed in compliance with this Section 8.1 or an Officer's Certificate of Lessee stating whether Lessee intends to renew or replace such Liability Insurance or Property Insurance, as the case may be, in compliance with this Section 8.1. If Lessee shall have provided such an Officer's Certificate in lieu of such certificates of insurance, Lessee shall facilitate requests of Lessor or Owner Participant to verify that the applicable Insurance has been renewed or replaced and in any event shall provide the parties referred to in the preceding sentence with such a certificate of insurance within 30 days after the expiration of the policies of such Insurance to be renewed or replaced.

(iv) The insurance policies carried in accordance with the terms of this Lease shall, to the extent available on a commercially reasonable basis from insurers of recognized standing who provide insurance to the railroad industry:

(a) require thirty (30) days' prior notice of cancellation for any reason or material change in the types or limits of coverage to the Additional Insureds;

(b) not require contributions from other policies held by the Additional Insureds;

(c) waive any right of subrogation of the insurers against the Additional Insureds;

(d) in respect of any liability of any of the Additional Insureds, except for salvage rights in the event of a Casualty Occurrence, waive the right of insurers to set-off, to counterclaim or to any other deduction, whether by attachment or otherwise, to the extent of any monies due the Additional Insureds;

(e) name the Additional Insureds (1) as additional insureds, as their respective interests may appear, in the case of Liability Insurance, and (2) as loss payees, as their respective interests may appear, in the case of Property Insurance, (provided, that such Property Insurance shall be made payable to Indenture Trustee under a standard mortgage loss payable clause meeting the further provisions hereof and satisfactory to Lessor and Indenture Trustee, unless and until Secured Notes cease to be Outstanding, at which time such insurance shall be made payable to Lessor);

(f) continue to insure the Additional Insureds regardless of any breach or violation of any warranty, declaration, or condition contained in such policy by Lessee or any other Person;

(g) waive any right to claim any premiums or commissions against the Additional Insureds; and

(h) provide that the insurers will promptly notify the Additional Insureds in writing of any default in the payment of any premium or any other act or omission on the part of Lessee of which they shall have knowledge which might entitle the insurers to cancel the policies.

(v) If Lessee is in default of its obligation to maintain the insurance coverages specified herein when such coverages are available on a commercially reasonable basis, each of the Additional Insureds may, at its option, but shall not be required to, provide such insurance (but without duplication of any such insurance obtained by any other Additional Insured pursuant to this Section 8.1(v) or by Lessee), and in such event, Lessee shall, upon demand from time to time, reimburse such Additional Insured for the cost to such Additional Insured of such insurance

which Lessee shall have failed to maintain and which such Additional Insured shall have obtained in accordance herewith together with interest thereon at the Overdue Rate, from the date of payment thereof to but excluding the date of receipt of such reimbursement.

(vi) Nothing in this Section 8.1 shall prohibit Lessor, Owner Participant, Indenture Trustee or a holder of a Secured Note from obtaining insurance for its own account and any proceeds payable thereunder shall be as provided in the insurance policy relating thereto; provided, that no such insurance may be obtained that would limit or otherwise adversely affect the coverage of any insurance to be obtained or maintained by Lessee pursuant to this Section 8.1, it being understood that all salvage rights to the Units in the event of a Casualty Occurrence shall remain with Lessee or its insurers at all times.

(vii) Once in each twelve (12) month period. Lessee shall provide certificates of insurance evidencing that the insurance required by Section 8.1 is in effect.

8.2 **Insurance Proceeds**. Lessee shall be entitled to receive and retain for its own account all proceeds of Property Insurance (except under policies described in Section 8.1(vi)) and third party payments in respect of any Unit suffering a Casualty Occurrence up to the Aggregate Casualty Payment set forth in Section 7.3, but only if such Aggregate Casualty Payment shall have been previously paid to and received by Lessor or Indenture Trustee, as the case may be. All such proceeds or payments, if any, in excess of Casualty Value shall be paid to, or retained by, Lessee. All Property Insurance proceeds (except under policies described in Section 8.1(vi)) or third party payments in respect of any Unit not suffering a Casualty Occurrence in respect of which Unit Lessee has elected to repair shall be held by Lessor or Indenture Trustee and paid to Lessee upon a written application signed by Lessee to reimburse Lessee for the costs of repairing, restoring or replacing the damaged Unit. Any amounts so held by Lessor or Indenture Trustee (which amounts shall be held by Lessor or Indenture Trustee, as the case may be, as security for the obligation of Lessee to make such repairs) and any proceeds or payments (and net earnings thereon) remaining after Lessee notifies Lessor and Indenture Trustee that such repairs have been made shall be paid to Lessee. Any such amounts which are held by Lessor or Indenture Trustee, as the case may be, pending payment to Lessee shall, until paid to Lessee as provided herein or, as long as the Indenture is in effect, until applied as provided in the Indenture, be invested by Lessor or Indenture Trustee, as the case may be, as directed from time to time in writing by and at the expense and risk of Lessee in Permitted Investments. Any gain (including interest received) realized as the result of any such investment (net of any fees, commissions and other expenses, if any, incurred in connection with such investment) shall be applied or reinvested in the same manner as the principal invested. The proceeds of any Liability Insurance shall be paid to or for the account of Lessee and the Additional Insureds as their interests may appear.

SECTION 9. INSPECTION

At all reasonable times, Lessor, Owner Participant, Indenture Trustee or their respective authorized representatives shall each have the right at its own risk and expense to inspect any Unit including, without limitation, the logs, records and reports, if any, of mileage

traveled on a state-by-state basis in respect of any Unit; provided that (i) no exercise of such inspection right shall interfere with the normal operation or maintenance of such Unit by, or the business of, Lessee (or any sublessee), (ii) Lessee (and any sublessee) incurs no out-of-pocket expenses; provided, however, that during the occurrence and continuation of a Lease Event of Default, any inspection conducted shall be at Lessee's expense and (iii) Lessor, Indenture Trustee and Owner Participant shall hold confidential all information obtained thereby in accordance with the terms of Section 14.10 of the Participation Agreement. None of Lessor, Indenture Trustee, Owner Participant or any other Person shall have any duty to make any such inspection or shall any of them incur any liability or obligation by reason of not making any such inspection.

SECTION 10. LESSOR'S REPRESENTATIONS AND WARRANTIES; DISCLAIMER OF WARRANTIES; QUIET ENJOYMENT

10.1 **Disclaimer**. LESSEE AGREES THAT IT LEASES THE EQUIPMENT AS-IS, WHERE-IS, WITH ALL FAULTS, AND IN WHATEVER CONDITION IT MAY BE. NEITHER LESSOR (WHETHER ACTING IN ITS INDIVIDUAL CAPACITY OR AS TRUSTEE), OWNER PARTICIPANT, LOAN PARTICIPANT NOR INDENTURE TRUSTEE MAKES OR HAS MADE, OR SHALL BE DEEMED TO MAKE OR HAVE MADE, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE TO ANY UNIT OR THE VALUE, QUALITY, DURABILITY, COMPLIANCE WITH SPECIFICATIONS, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE OF THE UNITS, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO LESSEE OR OTHERWISE, (which Units were selected by Lessee on the basis of its own judgment without reliance upon any statements, representations or warranties made by Lessor, Owner Participant, Loan Participant or Indenture Trustee); it being agreed that all such risks, as between Lessor, Trust Company, Owner Participant, Indenture Trustee and the holder of any Secured Note on the one hand and Lessee on the other hand, are to be borne by Lessee. Lessee's delivery of a Lease Supplement relating to a Unit shall be conclusive evidence as between Lessee and Lessor that such Unit is in all respects satisfactory to Lessee, and Lessee will not assert any claim of any nature whatsoever against Lessor, Owner Participant or Indenture Trustee based on any of the foregoing matters. Notwithstanding the foregoing, Lessee shall have the right to assert warranty claims as provided in the Purchase Agreement Assignment.

10.2 **Quiet Enjoyment**. Lessor covenants that so long as no Lease Event of Default shall have occurred and be continuing, neither it nor any Person acting through it will take or cause to be taken any action contrary to Lessee's rights under the Lease or otherwise in any way interfere with the right to the use, possession and quiet enjoyment of the Units by Lessee or any sublessee, assignee or transferee in accordance with the terms hereof.

SECTION 11. LAWS AND RULES

Lessee agrees, for the benefit of Lessor, Owner Participant and Indenture Trustee, to comply in all material respects with all laws, rules or regulations of the United States and any jurisdictions into which its operations involving the Units may extend, the AAR, the United States Department of Transportation, the Federal Railroad Administration, the Environmental Protection Agency, the ICC and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, in each case to the extent such laws, rules or regulations are applicable to the Units; provided, however, that Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not adversely affect the property or rights of Lessor, or any holder of a Secured Note or Indenture Trustee under this Lease or under the Indenture or would have a possibility of resulting in any criminal liability or any material civil liability on the part of Lessor, Indenture Trustee, Owner Participant or the holder of any Secured Note or involve any risk of loss, forfeiture or sale of the Equipment.

SECTION 12. USE AND MAINTENANCE

12.1 Use and Maintenance. Lessee (and any permitted sublessee) shall use the Equipment in any lawful manner consistent with the design of the Equipment. Lessee agrees that, at its own cost and expense, it will (i) maintain and service each Unit subject to scheduling in the ordinary course of Lessee's maintenance program, so that each Unit is (a) in good working order and physical condition (ordinary wear and tear excepted), (b) in compliance with Section 11, and (c) in material compliance with Manufacturer's maintenance recommendations and eligible under any Manufacturer's warranties and (ii) maintain all records, logs and other materials required by the then prevailing Interchange Rules, if applicable, the AAR or the United States Department of Transportation, or any other Governmental Authority having jurisdiction over the Units or Lessee, to be maintained in respect of each Unit. In no event shall any Unit be maintained with less care or scheduled for maintenance on a basis less frequent than either the maintenance or maintenance scheduling basis employed by Lessee for other similar passenger cars owned by or operated for or by Lessee. Subject to the preceding sentence and without relieving Lessee of any obligation relating to the physical condition of Units to be returned under Section 14 and Section 17, Lessee may take a Unit out of service while awaiting repair so long as Lessee takes reasonable care to prevent deterioration of the condition of such Unit beyond that attributable to the circumstances necessitating such repair and keeps such Unit otherwise eligible for applicable Manufacturer's warranties and in compliance with Section 11.

12.2 Additions and Accessions.

(i) Subject in all events to Sections 11 and 12.1, Lessee, at its own cost and expense, may from time to time make additions, modifications and improvements to the Units during the Lease Term, provided such additions, modifications and improvements do not diminish the value, utility or remaining useful life of the Units or cause any Unit to become "limited use property" (within the meaning of Rev. Proc. 76-30). The additions, modifications and improvements made by Lessee under the preceding sentence which are readily severable without

causing unrepaired damage to such Units and without adversely affecting the value, utility or remaining useful life of the Units, except to the extent such additions, modifications or improvements are otherwise subject to Section 12.2(ii), shall be owned by Lessee. All such additions, modifications and improvements shall be properly maintained and serviced by Lessee and Lessee shall promptly repair any damage to any Unit resulting from the removal of any addition, improvement or modification.

(ii) Any and all parts installed on and additions, modifications and improvements made to any Units (a) which are replacements of existing parts constituting part of the Units owned by Lessor, (b) which are not readily removable without causing unrepaired damage to such Unit, (c) the cost of which is included in the Equipment Cost of such Unit, (d) in the course of ordinary and proper maintenance of the Units, or (e) which are required by law or the regulations of the ICC, the then prevailing Interchange Rules, if applicable, the United States Department of Transportation, any agency thereof, or any other applicable regulatory body, for the operation or use of such Unit, shall constitute accessions to such Unit and shall immediately, and without further act or instrument, be deemed subject to this Lease, and Lessee shall comply with all provisions of this Lease, including Section 18, applicable to such accessions.

(iii) Upon termination of this Lease, Lessor shall have the option to purchase from Lessee any additions, modifications or improvements not described in Section 12.2(ii) above and owned by the Lessee pursuant to Section 12.2(i) above, at the then Fair Market Value of such additions, modifications or improvements. Lessee may remove any additions, modifications, or improvements not purchased by Lessor, provided, however, any such additions, modifications or improvements which are not removed shall become the property of Lessor, free of any claim of Lessee, upon delivering the Unit to Lessor.

SECTION 13. LEASE DEFAULT

13.1 **Lease Events of Default**. The following events shall constitute Lease Events of Default and each such event shall continue to be a Lease Event of Default so long as, but only as long as, it shall not have been remedied:

(i) Lessee shall fail to make any payment of Base Rent, Casualty Value or Renewal Rent within five (5) days after the same shall become due;

(ii) Lessee shall fail to make any payment of Supplemental Rent (other than any failure to make a payment specified in clause (i) above) when due and such failure shall continue for twenty (20) days after Lessee shall have received written notice from the Person entitled to such Supplemental Rent;

(iii) Lessee shall fail to carry and maintain insurance on or with respect to any Unit in accordance with the requirements of this Lease; provided that in the case of insurance with respect to which cancellation for any reason or material change in the types or limits of coverage shall not be effective as to any Additional Insured for thirty (30) days after receipt by any Additional Insured of notice of

such cancellation, no such failure to carry and maintain insurance shall constitute an Event of Default until the earlier of (a) the date such failure shall have continued unremedied for a period of thirty (30) days after receipt by any Additional Insured of the notice of cancellation referred to in Section 8.1(iv)(a) or (b) the date on which such insurance is not in effect as to any Additional Insured or Lessee shall fail to comply with the requirements of Section 17(i) or (ii) of the Participation Agreement;

(iv) any written representation or warranty made by Lessee herein, in the Participation Agreement or in any other Operative Document to which it is a party (other than the Tax Indemnity Agreement) or made by Lessee or any other Person in any certificate or other document delivered by Lessee in connection herewith or therewith shall prove at any time to have been in error in any material respect when made and such error shall be material at the time when the notice referred to below shall have been given to Lessee and shall not have been cured within thirty (30) days after written notice thereof to Lessee by Lessor, Indenture Trustee or Owner Participant, or, if such error is curable but is not capable of being cured within such 30-day period, such longer period not to exceed sixty (60) additional days during which (a) Lessee shall be diligently attempting to cure such error and (b) Lessee's failure to cure does not result in a sale, forfeiture or loss of the Equipment or of the interest of Indenture Trustee in any portion of the Trust Indenture Estate or adversely affect the entitlement of Owner Participant to the tax benefits as described by the Tax Assumptions as set forth in Section 2 of the Tax Indemnity Agreement;

(v) Lessee shall fail to perform or observe any covenant (other than covenants relating to matters covered by subsections (i), (ii) and (iii) above), condition or agreement to be performed or observed by it hereunder, under the Participation Agreement or in any other Operative Document to which it is a party (other than the Tax Indemnity Agreement), and such failure shall not have been cured within thirty (30) days after written notice thereof to Lessee by Lessor, Indenture Trustee or Owner Participant, or, if such failure is curable but not capable of being cured within such 30-day period, such longer period not to exceed sixty (60) days, or in the case of a Lease Default under Section 12.1 with respect to not more than three (3) Units at any time not to exceed 365 days, in each case during which (a) Lessee shall be diligently attempting to cure such failure and (b) Lessee's failure to cure does not result in a sale, forfeiture or loss of the Equipment or of the interest of Indenture Trustee in any portion of the Trust Indenture Estate or adversely affect the entitlement of Owner Participant to the tax benefits described in the Tax Assumptions as set forth in Section 2 of the Tax Indemnity Agreement;

(vi) Lessee shall consent to the appointment of a custodian, receiver, trustee or liquidator (or other similar official) of itself, any Unit or of a substantial

part of its property, or shall admit in writing its inability to pay its debts generally as they come due, or a court of competent jurisdiction shall determine that Lessee is generally not paying its debts as such debts become due, or Lessee shall make a general assignment for the benefit of creditors;

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

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

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

(x) any additional procedure similar to those referred to in subsections (vi), (vii), (viii) or (ix) above, for the relief of financially distressed debtors under applicable laws is entered into by Lessee voluntarily or involuntarily and, if such procedure shall have been entered into involuntarily, shall be unstayed and remain in effect for a period of sixty (60) consecutive days.

13.2 **Remedies**. If a Lease Event of Default shall have occurred and be continuing, then, in any such case, Lessor, at its option, may declare this Lease in default by a written notice to Lessee (provided, that this Lease shall be deemed to have been declared in default without the necessity of written notice upon any Lease Event of Default described in clauses (vi), (vii), (viii), (ix) or (x) of Section 13.1) and at any time thereafter, Lessor may exercise one or more of the following rights, powers or remedies as Lessor in its sole discretion

shall determine to the extent not prohibited by, and subject to compliance with any mandatory requirements of, applicable law then in effect:

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

(ii) by notice in writing to Lessee, cancel this Lease, whereupon all right of Lessee to the possession and use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as hereinafter provided; and thereupon, Lessor may demand that Lessee, and Lessee shall, upon written demand of Lessor and at Lessee's expense forthwith return all of the Equipment to Lessor or its order in the manner and condition required by, and otherwise in accordance with all of the provisions of Section 14, in which event Lessee's obligation to pay Base Rent and other Rent with respect to such Unit hereunder allocable to any periods subsequent to the date of such return shall terminate (except to the extent that Base Rent and other Rent are to be included in computations under paragraph (v) or (vi) below if Lessor elects to exercise its rights under either of said paragraphs);

(iii) sell any Unit at public sale in a commercially reasonable manner, free and clear of any rights of Lessee but subject to the duty to account to Lessee with respect to such sale or for the proceeds thereof as required by paragraph (vi) below, in which event Lessee's obligation to pay Base Rent and other Rent with respect to such Unit hereunder allocable to any periods subsequent to the date of such sale shall terminate (except to the extent that Base Rent and other Rent are to be included in computations under paragraph (v) or (vi) below if Lessor elects to exercise its rights under either of said paragraphs);

(iv) hold, keep idle or lease to others any Unit as Lessor in its sole discretion may determine, free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto, except that Lessee's obligation to pay Base Rent and other Rent with respect to such Unit allocable to any periods subsequent to the date upon which Lessee shall have been deprived of possession and use of such Unit pursuant to this Section 13 shall terminate (except to the extent that Base Rent and other Rent are to be included in computations under paragraph (v) or (vi) below if Lessor elects to exercise its rights under either of said paragraphs);

(v) whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under paragraph (i), (ii), (iii) or (iv) above with respect to any Unit, Lessor, by written notice to Lessee specifying a payment date (which date shall be a Casualty Value Determination Date for the purposes of computing Casualty Value) which shall be not earlier than thirty (30) days after the date of such notice, may demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Base Rent and other Rent for such Unit allocable to any period subsequent the payment date specified in such notice), whichever of the following amounts Lessor, in its sole discretion, shall specify in such notice: (a) an amount equal to the excess, if any, of the Casualty Value for such Unit, over the present value

of the Fair Market Rental Value of such Unit or, if Lessor has leased such Unit to others pursuant to paragraph (iv) above, for the period of such lease the periodic rent payable thereunder, in each case for the remainder of the Basic Term or any Renewal Term then in effect, as the case may be, as of the payment date specified in such notice, such present values to be computed on the basis of a per annum rate of discount equal to the Debt Rate, compounded semi-annually, from the respective dates upon which such rents would be paid; or (b) an amount equal to the excess, if any, of the Casualty Value for such Unit computed as of the payment date specified in such notice over the Fair Market Sales Value of such Unit as of the payment date specified in such notice;

(vi) if Lessor shall have sold any Unit pursuant to paragraph (iii) above, Lessor, in lieu of exercising its rights under paragraph (v) above with respect to such Unit may, if it shall so elect, demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Base Rent and any other Rent for such Unit allocable to any period subsequent to the Rent Payment Date next preceding such sale), any unpaid Rent for such Unit arising in any period up to and including the Rent Payment Date next preceding the date of such sale (other than the advance portion of Base Rent due on such Rent Payment Date) or, if earlier that on which Lessee was deprived of possession of such Unit, and, if that date is a Rent Payment Date, the Base Rent due on that date (other than the advance portion of Base Rent due on such Rent Payment Date), plus the amount, if any, by which the Casualty Value of such Unit computed as of the Rent Payment Date next preceding the date of such sale or loss of possession or, if such sale or loss of possession occurs on a Rent Payment Date, then computed as of such Rent Payment Date, exceeds the net proceeds of such sale;

(vii) apply to the obligations of Lessee hereunder or under any other Operative Document, in any such order as Lessor shall elect, any amounts held as security hereunder for Lessee's obligations; and

(viii) except as otherwise expressly agreed herein, exercise any other right, power or remedy which may then be available under any of the Operative Documents or which may be available to Lessor under applicable law or proceed by court action to enforce the terms hereof or to recover damages for the breach hereof or to rescind this Lease.

(ix) In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Base Rent and Supplemental Rent due hereunder before or during the exercise of any of the foregoing rights, powers or remedies and for all reasonable legal fees and other costs and expenses incurred by Lessor, Indenture Trustee, Owner Participant or any holder of a Secured Note by reason of the occurrence of any Lease Event of Default or the exercise of any of Lessor's rights, powers or remedies with respect thereto, including all costs and expenses incurred in connection with the surrender of the Units or in placing the Units in the condition required hereby, together, in each case, with interest thereon at the Overdue Rate; provided, that if a Unit has been repossessed, re-leased or sold pursuant to paragraph (ii), (iv) or (vi) above or otherwise, or redelivered pursuant to Section 14 or otherwise, Lessee shall have no further obligation under this Lease to pay Base Rent and Supplemental Rent in respect of such Unit except for (a) Lessee's obligation to pay any amounts of Base Rent and Supplemental Rent in respect of such Unit that on the date of repossession, re-leasing or sale are due or overdue or that relate to the period prior

to repossession, re-lease or sale, (b) any obligations with respect to such Unit provided for in paragraphs (iii) and (iv) of this Section 13.2 or Section 14 and (c) the obligation to pay as Supplemental Rent all indemnity payments and other obligations set forth in Sections 6 and 7 of the Participation Agreement, under the Tax Indemnity Agreement or under Section 13.4 or 14 of this Lease; provided, that nothing herein shall expand or diminish the indemnities under Section 6 or 7 of the Participation Agreement or under the Tax Indemnity Agreement.

13.3 **Remedies Not Exclusive**. Except as otherwise expressly agreed herein, the remedies provided in this Lease in favor of Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The failure of Lessor, Owner Participant, or any holder from time to time of any Secured Note to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies, or upon the occurrence of any similar contingencies.

13.4 **Indemnities**. Notwithstanding anything contained in Section 13.2 to the contrary, if a Lease Event of Default has occurred and Lessor has exercised remedies with respect thereto, Lessee shall be liable for all costs and expenses incurred by Lessor and any assignee thereof by reason of such exercise of remedies.

13.5 **1168 Matters**. Notwithstanding any provision herein to the contrary, it is intended, as between Lessor and Lessee that this Lease constitute a "*true lease*" for federal income tax purposes and the transactions contemplated by this Lease to be entitled to the full benefits of Section 1168 of the Bankruptcy Code. Without limiting the generality of the foregoing, Lessor and Lessee acknowledge that this Lease is a "lease" of rolling stock equipment and accessories within the meaning of Section 1168 of the Bankruptcy Code. To the extent permitted by law, so long as Section 1168 is in effect, Lessee agrees that it will not, in connection with any bankruptcy proceedings involving Lessee, take a position in the United States Bankruptcy Court that is inconsistent with the rights of Lessor under Section 1168.

13.6 **Waivers**. Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is effective under applicable law. Lessee hereby waives any and all existing or future claims to any offset against the Rent payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by Lessee or on its behalf. Except as otherwise provided in this Lease, Lessee, to the full extent effective under applicable law, hereby waives all statutory or other legal requirements for any notice of any kind, any other requirements with respect to the enforcement of Lessor's rights under this Lease and any and all rights of redemption.

SECTION 14. RETURN OF UNITS UPON DEFAULT

14.1 **Return of Units**. Upon the date of notice of termination by Lessor pursuant to Section 13.2(ii), Lessee shall, without expense or risk to Lessor, promptly redeliver

the Units, or cause the Units to be redelivered, to Lessor with all reasonable dispatch, in the same manner and in the same condition as if such Units were being redelivered on the last day of the Lease Term in accordance with the provisions of Section 17, and all obligations of Lessee under Section 17 shall apply to such redelivery. Lessor, without further notice, may, but shall be under no obligation to, retake such Units wherever found and take immediate possession of and remove the same by *ex parte* summary proceedings or otherwise without Lessor incurring any liability by reason of such retaking, whether for the restoration of damage to property caused by such retaking or otherwise; provided, however, that nothing herein shall be deemed or construed to constitute a waiver by Lessee of rights accorded debtors under Section 9-503 of the UCC insofar as it relates to proceeding without judicial process.

14.2 **Lessor Appointed Agent of Lessee**. Without in any way limiting the obligation of Lessee under the foregoing provisions of this Section 14, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee, with full power and authority to exercise Lessee's rights under this Section 14, at any time while Lessee is obligated to deliver possession of any Unit to Lessor, to demand and take possession of such Unit in the name and on behalf of Lessee from whomever shall then be in possession of such Unit.

SECTION 15. ASSIGNMENT, POSSESSION AND USE

15.1 **Assignment; Consent; Security for Lessor's Obligations to Indenture Trustee**.

(i) In order to secure the indebtedness evidenced by the Secured Notes, the Indenture provides, among other things, for the assignment, by Lessor to Indenture Trustee, of this Lease to the extent set forth therein and for the creation of a first priority security interest in the Trust Indenture Estate in favor of Indenture Trustee. Lessee hereby consents to the assignment by Lessor of Lessor's right, title and interest in and to this Lease to Indenture Trustee pursuant to the terms of, and to the extent set forth in, the Indenture, and agrees that, so long as any Secured Notes are Outstanding, all payments of Base Rent and Casualty Value payable hereunder shall be made to Indenture Trustee as provided in Section 4.4 hereof, or as Indenture Trustee, with the consent of the Owner Participant, may otherwise direct in a writing received by Lessee at least ten (10) Business Days prior to the applicable payment date, and thereafter by wire transfer to an account in New York, New York designated by Lessor or at such place or to the attention of such Person or department as Lessor may specify from time to time in writing delivered to Lessee not less than ten (10) Business Days prior to the due date of the payment to be made at the place specified in such writing.

(ii) Unless and until Lessee shall have received written notice from Indenture Trustee that the Lien of the Indenture has been released, the terms and provisions of the Indenture shall govern as to whether the consent or agreement of either Lessor or Indenture Trustee, or both, shall be required in order to effect any consent, amendment or modification of, or waive any requirements under, this Lease.

15.2 **No Liens; Lessee's Rights to Use the Units, to Permit Use Thereof by Others and to Sublease the Units**.

(i) Lessee (a) will not, directly or indirectly, create, incur, assume or suffer to exist any Lien (other than Permitted Liens) on or with respect to any Unit, any part thereof or the title thereto and (b) at its own expense will promptly discharge any such Lien which arises; provided, that Lessee may at its own expense in good faith, contest the validity or application of any such Liens in any manner which does not materially and adversely affect the property or rights of Lessor or Indenture Trustee under this Lease or under the Indenture or create material risk of any criminal or material civil liability on the part of Lessor, Indenture Trustee, Owner Participant or the holder of any Secured Note or involve any material risk of loss, forfeiture or sale of the Equipment.

(ii) Provided no Lease Event of Default shall have occurred and be continuing, Lessee shall be entitled to enter into a sublease with the Units subject to all the terms and conditions of this Lease; provided, that Lessee's obligations hereunder shall continue in full force and effect as the obligations of a principal and not of a surety irrespective of any such sublease. Each sublease permitted by this paragraph shall (unless otherwise consented to by Lessor and Indenture Trustee, which consent will not be unreasonably withheld or delayed), (a) be expressly subject and subordinate to all of the provisions of this Lease and to the rights and remedies of Indenture Trustee under the Indenture and Lessor under this Lease in respect of the Units covered by such sublease, (b) be for a term not extending beyond the end of the Base Lease Term or the end of the Renewal Term then in effect, unless such sublease provides for Lessee's right to substitute similar equipment thereunder, (c) not be to an entity which is then subject to a proceeding under the Bankruptcy Code or formed under the laws of Mexico (or any political subdivision thereof), (d) not be for a term in excess of (x) one (1) year if and for so long as more than 50% of the Units subject to the Lease shall be subleased (regardless of duration) or (y) two (2) years, in all other cases. If Lessor's consent to a sublease is required by reason of clauses (c) or (d) above or a Lease Event of Default shall have occurred and be continuing when such sublease (or renewal thereof) was entered into, such sublease shall be assigned to Lessor as security on terms and conditions reasonably satisfactory to Lessor. For purposes of clauses (c) and (d) of the preceding sentence, "subleases" shall not include subleases or other use arrangements under which Lessee retains direct operational control of the Units or maintenance responsibility.

(iii) Lessee agrees not to operate or locate any Unit, or to suffer any Unit, by sublease or otherwise, to be operated or located, (a) so as to cause a violation of the first sentence of Section 12.1, (b) in any area excluded from coverage by any insurance policy required by the terms of Section 8 hereof, except in the case of a requisition for use by the United States Government where Lessee (or any sublessee) has obtained, prior to the operation or location of the Unit in such area, indemnification or insurance in lieu of such indemnification from the United States Government against the risks and in the amounts required by, and in compliance with, Section 8 hereof covering such area, or (c) in Mexico, except, after written notice to Lessor, for use by Lessee in scheduled train passenger train service between destinations in the United States

and Mexico where (1) no more than half of the Units subject to the Lease are placed in such service, (2) no Unit is scheduled to be in Mexico for more than 24 hours prior to return to the United States and (3) no Unit is scheduled to be in Mexico more than half of the time, on average.

15.3 Transfers by Lessor. Lessor shall not transfer its interest in this Lease except in compliance with Section 10 of the Participation Agreement and Article X of the Trust Agreement. No such transfer by Lessor shall interfere with Lessee's rights under this Lease with respect to Lessee's use of the Units.

SECTION 16. PURCHASE OPTIONS; RENEWAL OPTIONS

16.1 **Special Purchase Option**.

If this Lease has not been earlier terminated, then Lessee may by written notice delivered to Lessor and Owner Participant not less than thirty (30) days prior to any Special Purchase Date, elect to purchase on the applicable Special Purchase Date for any Unit all, but not less than all of the Units of any Car Type then subject to this Lease, at a purchase price equal to the Special Purchase Price, plus all other amounts due and owing hereunder less the advance portion of any Base Rent due on such Special Purchase Date. Lessee may elect to pay a portion of the purchase price under this Section 16.1 by causing to be issued, in exchange for a like principal amount of Secured Notes of the applicable Series in accordance with Section 2.03 of the Indenture and Section 18 of the Participation Agreement, notes having an aggregate principal amount up to the aggregate principal amount of Secured Notes of the applicable series that would have been mandatorily prepaid pursuant to Section 6.02 of the Indenture had Lessee paid such Special Purchase Price entirely in cash. The balance of the Special Purchase Price due on any Special Purchase Date, together with all other Rent then due less the advance portion of any Base Rent due on such Special Purchase Date, shall be paid to Lessor, in cash or other immediately available funds, on such Special Purchase Date. The Lease shall terminate as to such Units and Lessee's exercise of any purchase option under Section 16.1 shall be effective only upon payment in full of the applicable Special Purchase Price on the due date therefor and, if applicable, in compliance with Section 2.03 of the Indenture.

16.2 **End of Term Purchase Options**.

(i) If this Lease has not been earlier terminated, then Lessee may, by irrevocable written notice delivered not less than one hundred twenty (120) days prior to the Base Lease Expiration Date commit to purchase on the applicable Base Lease Expiration Date all, but not less than all, of the Units of any Car Type then subject to this Lease at a purchase price equal to the Fair Market Value thereof (as determined below) payable on the Base Lease Termination Date.

(ii) If this Lease has not been earlier terminated, then Lessee may, by irrevocable written notice delivered to Lessor not less than one hundred twenty (120) days prior to the end of any Renewal Term, commit to purchase all, but not less than all, of the Units of any

Car Type then subject to this Lease at a purchase price equal to the Fair Market Value thereof (as determined below) payable on the last day of such Renewal Term.

16.3 **Further Assurances**. Upon payment of the purchase price with respect to any Units purchased pursuant to an exercise by Lessee of any option to purchase under this Section 16, Lessor shall execute and deliver to Lessee, or Lessee's assignee or nominee, such instrument as will transfer to Lessee such Units, as-is, where-is, without recourse, representation or warranty of any kind other than that such Units are free and clear of all Lessor's Liens and Owner Participant's Liens.

16.4 **Renewal Options**.

(i) Lease Renewal Terms. If this Lease has not been earlier terminated and no Specified Default or Event of Default shall be continuing on the effective date of the renewal, Lessee may elect, by irrevocable written notice delivered to Lessor not less than one hundred twenty (120) days prior to Base Lease Expiration Date or the end of Fixed Rate Renewal Term, as the case may be, to renew this Lease as of such applicable date with respect to all, but not less than all, of the Units of any Car Type then subject to this Lease, to extend this Lease as follows:

(a) at the end of the Base Lease Term, for a single period of not less than one year nor more than three years ending on or before the Maximum Fixed Rate Renewal Termination Date at a semi-annual Base Rent equal to the Fixed Rate Renewal Rent payable in arrears; provided, however, that Lessee shall have delivered an appraisal to Lessor in accordance with Section 16.4(ii) below setting forth the Maximum Fixed Rate Renewal Termination Date; and provided, further, that no such renewal term shall extend beyond such Maximum Fixed Rate Renewal Termination Date (such renewal term under this clause (a) being referred to herein as the "*Fixed Rate Renewal Term*"); or

(b) at the end of the Base Lease Term or any Renewal Term for one period (as selected by Lessee but of not less than one year), at Fair Market Rental payable in arrears (the "*Fair Market Renewal Term*").

If the Lease is to be extended with respect to less than all Units, Lessee shall specify in such notice the particular Units as to which the Lease is to be extended.

(ii) Appraisal. At the end of the Base Lease Term, Lessee may deliver to Lessor an appraisal of all of the Units then subject hereto by an independent appraiser of railroad equipment mutually acceptable to Lessee and Lessor (or if no such mutually acceptable appraiser can be identified, then by a panel of appraisers selected in accordance with Section 16.5) which shall determine the date (such specified date being referred to herein as the "*Maximum Fixed Rate Renewal Termination Date*") when (a) at least twenty percent (20%) of the Units' total useful life from the Closing Date will remain and (b) the Fair Market Value of the Units (without regard to inflation or deflation from the Closing Date) will be at least twenty percent (20%) of the Equipment Cost of the Units. Such appraiser shall be directed to assume for purposes of such

determination that as of the Base Lease Termination Date all of the Units will be in the condition required by Section 17.

16.5 **Determination of Fair Market Value and Fair Market Rental**.

(i) At any time within sixteen (16) months prior to the Base Lease Expiration Date or the end of the then pending Renewal Term, at Lessee's request, Lessor and Lessee shall negotiate in good faith to determine the Fair Market Value and Fair Market Rental of the Units within forty-five (45) days after such request has been given. If after such forty-five (45) day period, Lessor and Lessee are unable to agree upon a determination of the Fair Market Value or Fair Market Rental, as the case may be, of the Units, the Fair Market Value or Fair Market Rental, as the case may be, shall be determined in accordance with the appraisal procedure set forth in this Section 16.5. If either party shall have given written notice to the other requesting determination of such Fair Market Value or Fair Market Rental by such appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is appointed within fifteen (15) days after such notice is given, such determinations shall be made by a panel of three independent appraisers, one of whom shall be selected by Lessee and another of whom shall be selected by Lessor, both selections to be made within ten (10) days after the end of such fifteen (15) day period, and the third of whom shall be selected by the two appraisers so selected. If Lessor or Lessee fails to appoint an appraiser within such ten (10) day period, no other appraiser shall be appointed and the appraisal shall be made solely by the appraiser appointed by the other party. If the two appraisers so selected cannot agree upon such third appraiser, such third appraiser shall be selected by the American Arbitration Association (or any successor organization) from a pool of arbitrators having experience in the railroad industry and a familiarity with the passenger cars comparable to the Units.

(ii) If a single appraiser shall have been appointed by the parties, the determination of such appraiser shall be final and binding upon the parties. If three appraisers shall have been appointed, the average of the appraisals of the two of the three appraisers whose appraisals are the closest shall constitute the determination of the appraisers (unless one appraisal is equally close to two different appraisals, in which case the average of the three appraisals shall constitute such determination) and be final and binding upon the parties.

(iii) The appraiser or appraisers shall be provided with, and instructed to appraise in accordance with, the definitions of all terms appearing in the Operative Documents and having a bearing on the determinations subject to appraisal and in accordance with customary appraisal procedures.

(iv) The fees and expenses of each appraiser (a) selected by Lessee shall be paid by Lessee, (b) selected by Lessor shall be paid by Lessor and (c) selected jointly by Lessee and Lessor or selected by the appraisers selected by Lessee and Lessor or selected by the American Arbitration Association (or any successor organization) shall be paid one-half by Lessee and one-half by Lessor; provided, that the expenses of any appraisal carried out pursuant to Section 13 shall be paid in their entirety by Lessee.

SECTION 17. RETURN OF UNITS UPON EXPIRATION OF TERM

17.1 **Redelivery**.

(i) On the expiration date of the Base Lease Term or any applicable Renewal Term with respect thereto or, if Lessor shall have requested storage with respect to the Units as provided hereinbelow, on the termination date of any applicable storage period or at one earlier time during such a storage period as Lessor may specify on at least thirty (30) days' notice, Lessee shall assemble and deliver possession of the Units in accordance with the terms of this Lease, at Lessee's cost and expense, to not more than three (3) of Lessee's terminals, maintenance facilities or other locations selected by the Lessor from a list of at least six (6) of same prepared by Lessee. Such list shall be provided to Lessor not later than ninety (90) days prior to the scheduled date of any return of Units and shall specify the maximum number of Units returnable at each location. The locations selected by Lessor from such list and the number of Units to be delivered to each shall be specified in a written notice given by Lessor to Lessee at least sixty (60) Business Days (and thirty (30) days if the Units are being delivered out of storage) prior to such redelivery (each, a "*Redelivery Location*").

(ii) Lessee will, at the written request of Lessor made once not later than sixty (60) days prior to the end of the Base Lease Term or any applicable Renewal Term with respect to any Unit, store such Unit free of charge and at Lessee's expense, except for the cost of any insurance taken out by Lessee for Lessor's benefit, on storage tracks selected and owned or leased by Lessee for a period of one hundred twenty (120) days following the Base Lease Expiration Date or the last day of the applicable Renewal Term, as the case may be. Lessor shall bear all risk of loss to such Units during such storage period.

(iii) If any Unit is inspected pursuant to Section 17.3(ii) and pursuant to Section 17.3(iii) is deemed not in the condition required by Section 17.2, Lessee, at its expense and risk, shall as promptly as possible but in no more than thirty (30) days thereafter make such repairs and perform such work as shall be necessary to place such Unit in the condition required by Section 17.2; provided, however, that if Lessee reasonably determines that it cannot repair a Unit pursuant to this Section 17.1(iii) within the period permitted herein, Lessee may elect to purchase such Unit for the greater of Fair Market Value (determined on the assumption that such Unit was in the required condition) and Casualty Value determined as of the last day of the applicable Lease Term. Lessee will provide Lessor with notice when such Unit has been repaired so as to be in the condition required by Section 17.2.

17.2 **Return**.

(i) At the time of any return, the Units shall be free and clear of all liens, security interests, charges and encumbrances and rights of others (other than Permitted Liens, it being understood that Lessee will promptly (and in any event within thirty (30) days after redelivery) and diligently cause any such Permitted Liens (other than Lessor's Liens and Owner Participant's Liens) to be discharged or bonded or otherwise secured for payment and discharge (provided that at the time of a return pursuant to Section 14.1, any such Permitted Liens (other

than Lessor's Liens and Owner Participant's Liens) shall have been discharged (provided there shall be no recourse against such Unit and Lessor shall have approved such arrangement) bonded or otherwise secured for payment and discharge) and shall be in the condition required by Section 12 (without regard to the scheduling of maintenance) and this Section 17.2. Each Unit returned to Lessor pursuant to this Section 17 shall (a) be in compliance with Section 11, (b) have attached or affixed thereto any addition, modification or improvement considered an accession thereto as provided in Section 12.2(ii), (c) be clean by industry standards and (d) be configured for substantially the same use (e.g. sleeper car, coach, etc.) as when originally delivered. Lessee shall provide to Lessor, with respect to each Unit returned to Lessor pursuant to this Section 17, true, correct and complete copies of all records, logs and other materials maintained by Lessee in accordance with Section 12.1(ii).

(ii) Upon the request of Lessor, and at Lessor's sole expense, Lessee shall cooperate with Lessor in obtaining the valid and effective issuance, or, as the case may be, transfer or amendment of all governmental action necessary or, in the reasonable opinion of Lessor, desirable for the ownership of any Unit by Lessor or any transferee, sublessee or assignee thereof.

17.3 **Inspections**.

(i) Lessee shall make any or all of the Units available for inspection at no more than three (3) locations on Lessee's route system in the United States and on no more than three (3) total occasions each at such hours and for such length of time as are mutually agreed to by Lessor and Lessee in order to provide Lessor or its agents a reasonable opportunity to make the inspection described in Section 17.3(iii) of the Units to be assembled at such location on such occasions. Lessor shall inspect all such Units pursuant to this Section 17.3(i).

(ii) Not later than thirty (30) days after the redelivery of a Unit pursuant to Section 17.1 (including a redelivery to a storage location), Lessor or its agent may inspect such Unit to determine whether such Unit is in the condition required by Section 17.2. If Lessor fails to object to the condition of a Unit during such period or if Lessor removes or causes to be removed such Unit from any storage area or Redelivery Location prior to any inspection thereof, such Unit shall be deemed to have satisfied the conditions of Section 17.2.

(iii) At any inspection pursuant to this Section 17.3, qualified independent inspectors representing both Lessee and Lessor, or an independent inspector, in each case satisfactory to both Lessor and Lessee, shall be present at the inspection and shall within a reasonable time from the date of such inspection determine and specify in writing the agreed repairs or work, if any, necessary to place each Unit in the condition required by Section 17.2.

17.4 **Continuing Obligations**. Any Unit not delivered on the date of expiration of the Lease Term in accordance with Section 14 or this Section 17, as the case may be, shall continue to be subject to all of the obligations of Lessee set forth in this Lease, and Lessee shall pay rent equal to the daily equivalent of the Base Rent or Renewal Rent, as the case may be, from the expiration of the thirty (30) day period referred to in Section 17.1(iii) until such Unit is so

delivered. If Lessee shall, for any reason whatsoever, fail to return any Unit at the time specified herein, the obligations of Lessee as provided in this Lease shall continue in effect with respect to such Unit until such Unit is returned to Lessor; provided, however, that this Section 17.4 shall not be construed as permitting Lessee to fail to meet its obligations to return any Unit in accordance with the requirements of this Lease or constitute a waiver of a Lease Event of Default.

SECTION 18. RECORDING

18.1 **ICC; State**. Lessee, at its own expense, pursuant to the Participation Agreement, will cause this Lease, each Lease Supplement relating to the Units being delivered on applicable Delivery Date, the Indenture and the Indenture Supplements relating to the Units being delivered on applicable Delivery Date to be filed with the ICC pursuant to Section 11303 of the Act prior to the delivery and acceptance of any Unit and shall cause to be so filed promptly after execution and delivery thereof by all parties thereto any Lease Supplement and Indenture Supplement entered into in accordance with the Operative Documents. Lessee, at its own expense, will further cause this Lease, any Lease Supplements, the Indenture, Indenture Supplements and/or appropriate financing statements or continuation statements to be filed and recorded and, from time to time when required, refiled and rerecorded, in accordance with the applicable provisions of the Uniform Commercial Code as in effect in the District of Columbia (and, if Lessee changes its chief executive office to any state, in such state) and in any other state of the United States or the District of Columbia where filing is necessary to the reasonable satisfaction of counsel to Owner Participant and counsel to Indenture Trustee and shall do such other things to preserve and maintain the perfection and priority of the Lien of the Indenture and the ownership of the Lessor in the Equipment as such counsel may reasonably request.

18.2 **Continuing Obligations**. Lessee, in addition to the requirements of Section 18.1 above, will from time to time do and perform in a timely manner any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, rerecord or redeposit whenever required) any and all further instruments required by law (including without limitation continuation statements) or reasonably requested by Lessor, Owner Participant or Indenture Trustee for the purpose of proper protection, to its satisfaction, of its respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Lease and the Indenture.

SECTION 19. LESSOR'S RIGHT TO PERFORM FOR LESSEE

If Lessee fails to perform or comply with any of its agreements contained herein, Lessor and (but without duplication) Indenture Trustee may upon notice to Lessee (but shall be under no obligation to) perform or comply with such agreement, and the amount of the reasonable costs and expenses of Lessor or Indenture Trustee, as the case may be, incurred in connection with such performance or compliance, together with interest on such amount at the Overdue Rate shall be payable by Lessee upon demand. No such performance or compliance by Lessor or Indenture Trustee, as the case may be, shall be deemed a waiver of the rights and remedies of Lessor, Indenture Trustee or any assignee of Lessor against Lessee hereunder.

SECTION 20. NOTICES

Any notices, request or other communication hereunder shall be in writing and, if mailed, shall be deemed to be duly given or made in accordance with the Participation Agreement.

SECTION 21. SEVERABILITY

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

SECTION 22. EFFECT AND MODIFICATION OF THIS LEASE

Except for the other Operative Documents, this Lease exclusively and completely states the rights of Lessor and Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. Subject to Article X of the Indenture, no variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for Lessor and Lessee, and if required by the Indenture, Indenture Trustee.

SECTION 23. NATURE OF THIS LEASE

It is the intention of the parties hereto that this Lease shall constitute an agreement of lease, and prior to the exercise by Lessee of its rights to purchase the Units, nothing herein shall be construed as conveying to Lessee any title to or ownership of the Units, the rights and interest of Lessee hereunder with respect to and in the Units being those of a lessee only.

SECTION 24. EXECUTION

This Lease may be executed in any number of counterparts and by the different parties hereto on separate counterparts (or upon separate signature pages bound together into one or more counterparts), each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. To the extent, if any, that this Lease or any Lease Supplement constitutes chattel paper or other Trust Indenture Estate within the meaning of the Uniform Commercial Code (or other law respecting security interests) as in effect in any applicable jurisdiction, no security interest in Lessor's interest under this Lease or any such Lease Supplement may be created through the transfer or possession of any counterpart of this Lease or such Lease Supplement other than the original executed counterpart No. 1 hereof or thereof, which shall be identified as the counterpart containing the receipt therefor executed by Indenture Trustee on the signature page hereof or thereof.

SECTION 25. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the law of the District of Columbia; provided, that the parties shall be entitled to all rights conferred by Section 11303 of the Act.

SECTION 26. VOLUNTARY TERMINATION BY LESSEE

26.1 **Termination**. At any time on or after the fifth anniversary of the applicable Delivery Date with respect to any Units, if Lessee shall have determined in good faith that such Units shall have become obsolete or operationally uneconomic or surplus to Lessee's needs and shall have furnished to Lessor a certificate executed by an engineering or financial officer of Lessee having a title of Vice President or higher to such effect, Lessee shall have the right at its option, on at least one hundred twenty (120) days prior written notice to Lessor to terminate this Lease on the Rent Payment Date following such determination and specified in such notice (a "*Termination Date*") with respect to all, but not less than all, of the Units of any Car Type then remaining under the Lease. Lessor may, by notice to Lessee given on or before the fifteenth (15th) day after the date of Lessee's termination notice, elect to retain such Units as of the Termination Date without further liability or obligation of Lessee under this Section 26 with respect to such Unit except the obligation to pay any Base Rent payable in arrears on such Termination Date and any premium in respect of the Secured Notes payable in connection with this prepayment and Lessor will prepay and retire a pro rata portion of the Outstanding Secured Notes pursuant to the terms thereof.

26.2 **Solicitation of Bids**. Unless Lessor shall have elected to retain such Unit in accordance with the last sentence of Section 26.1, Lessee, as agent for Lessor but at Lessee's expense, shall use commercially reasonable efforts to obtain bids for the cash purchase on the Termination Date of such Unit during the period from the giving of such notice until the Termination Date. Lessee, however, shall have no liability for any failure to obtain the best bid for the Equipment. Lessee shall certify to Lessor in writing the terms and amount of each bid received by Lessee and the name and address of the Person (who shall not be Lessee or any Person acting for or affiliated with Lessee) submitting such bid. Lessor may, at Lessor's expense, independently obtain bids for such purchase and certify them to Lessee as provided in the next preceding sentence.

26.3 **Third-Party Sale**. On the Termination Date, unless Lessor shall have elected to retain such Unit pursuant to the last sentence of Section 26.1, Lessor shall sell such Unit for cash to a third party who shall have submitted the highest bid prior to such date; provided, however, that Lessee shall have the right to withdraw its election to terminate and reject each bid, if any, theretofore received; provided, further, however, that Lessee may withdraw such election no more than two (2) times and, upon any such revocation, Lessee shall reimburse each of Lessor, Owner Participant and Indenture Trustee for all reasonable out-of-pocket expenses incurred by it in connection with the revoked termination and this Lease shall continue in full force and effect with respect to such Unit. The total sale price realized at such sale, net of all fees and expenses of the sale incurred by Lessor, Lessee, Owner Participant and Indenture Trustee in

connection with the sale (including commissions) shall be received by Lessor and, in addition, on the date of such sale Lessee shall pay to Lessor the sum of: (i) the amount, if any, by which the Casualty Value for such Unit computed as of the Termination Date exceeds such total sales price net of such fees and expenses, (ii) the installment of Base Rent due on the Termination Date (less the advance portion of any Base Rent due on such date) and (iii) all other amounts, whether Rent or otherwise, owing by Lessee to Lessor, Owner Participant, Indenture Trustee and any holder of a Secured Note under any Operative Document, under the Participation Agreement and the Tax Indemnity Agreement, including any Make-Whole Amount payable to Loan Participant in connection with the prepayment of a pro rata portion of the Outstanding Secured Notes. Lessor shall transfer to the purchaser named in the highest cash bid certified by Lessee upon receipt of the purchase price therefor and payment of all other sums payable to Lessor under this Section 26, all Lessor's right, title and interest in and to such Unit, without recourse, representation or warranty, except as to the absence of Lessor's Liens and Owner Participant's Liens, and this Lease with respect to such Unit shall terminate. If no sale shall have occurred on the Termination Date or if Lessor elects to retain the Units and fails to prepay the Secured Notes, this Lease shall continue in full force and effect as to such Unit as if no notice of termination had been given.

26.4 Notice to Indenture Trustee. At least thirty (30) days (or such shorter period as is acceptable to Indenture Trustee) prior to the Termination Date, Lessee shall furnish, or cause to be furnished, to Indenture Trustee and Owner Participant, in writing, all pertinent information required to be included in the notice to be given by Indenture Trustee pursuant to Section 6.05 of the Indenture and described in subsections (i), (ii) and (iii) thereof.

SECTION 27. ASSIGNMENT

Lessee may not assign its rights and obligations under this Lease and the other Operative Documents without the prior written consent of Lessor (such consent not to be unreasonably withheld), except that no such consent shall be required in the case of an assignment to an Affiliate of Lessee, provided that such Affiliate of Lessee is not the subject of any proceeding under the Bankruptcy Code and that Lessee guarantees such Affiliate's obligations under the Lease in a form of guaranty reasonably satisfactory to Lessor. Notwithstanding the foregoing, Lessee may, at its own expense without the consent of Lessor, assign its interest hereunder to any corporation into or with which it shall be merged or consolidated or to whom it shall transfer substantially all of its property provided that after giving effect to such merger, consolidation or transfer, the tangible net worth of the surviving entity shall be no less than seventy-five percent (75%) of the tangible net worth of Lessee as of September 30, 1993. In connection with any such assignment, Lessee shall cause the surviving entity, by merger, consolidation or otherwise, to execute and deliver to Lessor and Indenture Trustee instruments evidencing the express assumption of Lessee's obligations hereunder and a legal opinion confirming that this Lease is enforceable against the assignee and that any such guaranty is enforceable against Lessee.

SECTION 28. LESSOR

Whenever the term "Lessor" is used in this Lease it shall apply and refer to Lessor and (to the extent assigned by Lessor) any permitted assignee of Lessor (including, so long as any indebtedness evidenced by the Secured Notes or interest thereon shall remain unpaid or any other obligation thereunder be continuing, Indenture Trustee, all as more fully provided in Section 15.1(ii)).

SECTION 29. LIABILITY OF LESSOR LIMITED

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

SECTION 30. NO MERGER

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

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed in their respective corporate names as of the day and year first above written.

WILMINGTON TRUST COMPANY, not in its individual capacity, but solely as Owner Trustee, Lessor

By: _____

Name: Thomas P. Laskaris

Title: Vice President

NATIONAL RAILROAD PASSENGER CORPORATION, Lessee

By: _____

Name:

Title:

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed in their respective corporate names as of the day and year first above written.

WILMINGTON TRUST COMPANY, not in its individual capacity, but solely as Owner Trustee, Lessor

By: _____
Name:
Title:

NATIONAL RAILROAD PASSENGER CORPORATION, Lessee

By: _____
Name:
Title: Richard I. Klein
Treasurer

STATE OF DELAWARE)
) ss
COUNTY OF NEW CASTLE)

On this 22 day of June, 1994 before me personally appeared Thomas P. Laskaris, to me personally known, who being by me duly sworn, says that he/she is the Vice President of Wilmington Trust Company, a Delaware banking corporation, as Owner Trustee under such instrument, that said instrument was signed on behalf of said banking corporation by authority of its Board of Directors, and he/she acknowledges that the execution of the foregoing instrument was the free act and deed of said banking corporation.

Paula M. Sulecki
Notary Public

PAULA M. SULECKI
NOTARY PUBLIC
My commission expires April 14, 1996

My Commission Expires: _____

[SEAL]

DISTRICT OF COLUMBIA)
) ss
CITY OF WASHINGTON)

On this 22nd day of June, 1994, before me personally appeared Richard I. Klein, to me personally known, who being by me duly sworn, says that he is the Treasurer of NATIONAL RAILROAD PASSENGER CORPORATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

My Commission Expires: 1-1-95

[SEAL]

EXHIBIT A TO LEASE OF
RAILROAD EQUIPMENT

LEASE SUPPLEMENT NO. ____

(Amtrak Trust 94-D)

THIS LEASE SUPPLEMENT NO. ____ dated as of _____, 1994 (this "*Lease Supplement*") between WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual capacity but solely as trustee under that certain Trust Agreement (Amtrak 94-D) dated as of June 15, 1994 between J.P. Morgan Interfunding Corp., a Delaware corporation, and such trustee, as lessor, and NATIONAL RAILROAD PASSENGER CORPORATION (also known as AMTRAK), a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia, as lessee, pursuant to and in accordance with the Lease of Railroad Equipment (Amtrak Trust 94-D) dated as of June 15, 1994 between Lessor and Lessee (as amended and supplemented to the date hereof, the "*Lease*").

1. Capitalized terms and phrases used and not otherwise defined herein shall for all purposes of this Lease Supplement have the respective meanings specified therefor in Annex A to the Lease, as originally executed or as modified, amended or supplemented in accordance with the applicable provisions thereof.

2. The Units covered by this Lease Supplement are described in Schedule 1 attached hereto.

3. The Equipment Cost for each Unit is set forth below:

AMTRAK NO.	MANUFACTURER'S NO.	EQUIPMENT COST
		$

4. The Interim Term of the Lease for the Units covered by this Lease Supplement shall commence on the date of this Lease Supplement and shall terminate on _____, 1994 unless terminated pursuant to the terms of the Lease. The Base Lease Commencement Date of the Lease for the Units covered by this Lease Supplement shall commence on _____, 1994 and shall terminate on _____, _____ unless earlier terminated or extended pursuant to the terms of the Lease.

5. All of the terms and provisions of the Lease, as supplemented or amended, including, without limitation, Lessee's obligation to pay Rent, are hereby incorporated by reference in this Lease Supplement on and as of the date hereof, to the same extent as if fully set forth herein, and the Lease, as supplemented hereby, is hereby ratified, approved and confirmed.

6. This Supplement may be executed in several counterparts (or upon separate signature pages bound together into one or more counterparts), such counterparts together constituting but one and the same instrument. To the extent, if any, that this Lease Supplement constitutes chattel paper or other collateral within the meaning of the Uniform Commercial Code (or other law respecting security interests) as in effect in any applicable jurisdiction, no security interest in Lessor's interest under this Lease Supplement may be created through the transfer or possession of any counterpart of this Lease Supplement other than the original executed counterpart No. 1 hereof which shall be identified as the counterpart containing the receipt therefor executed by Indenture Trustee on or immediately following the signature page hereof.

7. Lessee hereby represents and warrants to Lessor that, effective on the date hereof, (i) the Units described in Schedule 1 hereto (a) have been delivered from Lessor to Lessee, (b) have been duly inspected by Lessee, (c) have been duly accepted by Lessee, and (d) are free and clear of all lien and encumbrances (except Permitted Liens) and (ii) that said Schedule 1 contains a correct and complete description of said Units sufficient for the purposes of the Lease.

IN WITNESS WHEREOF, the parties have caused this Lease Supplement to be duly executed by their respective duly authorized officers as of the date first set forth above.

WILMINGTON TRUST COMPANY, not in its individual capacity, but solely as Owner Trustee, Lessor

By: _____
Name:
Title:

NATIONAL RAILROAD PASSENGER CORPORATION, Lessee

By: _____
Name:
Title:

TO THE EXTENT, IF ANY, THAT THIS LEASE SUPPLEMENT CONSTITUTES CHATTEL PAPER OR OTHER TRUST INDENTURE ESTATE WITHIN THE MEANING OF THE UNIFORM COMMERCIAL CODE (OR OTHER LAW RESPECTING SECURITY INTERESTS) AS IN EFFECT IN ANY APPLICABLE JURISDICTION, NO SECURITY INTEREST IN LESSOR'S INTEREST UNDER THIS LEASE SUPPLEMENT MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE ORIGINAL EXECUTED COUNTERPART NO. 1 HEREOF WHICH SHALL BE IDENTIFIED AS THE COUNTERPART CONTAINING THE RECEIPT THEREFOR EXECUTED BY FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE, IMMEDIATELY FOLLOWING THIS LEGEND. SUCH COUNTERPART IS THE ONLY COUNTERPART OF THE LEASE SUPPLEMENT THAT CONTAINS THIS LEGEND.

Receipt of this original counterpart No. 1 of the foregoing Lease Supplement is hereby acknowledged this ____ day of _____, 19____.

FIRST SECURITY BANK OF UTAH,
NATIONAL ASSOCIATION
as Indenture Trustee

By: _____
Name:
Title:

DISTRICT OF COLUMBIA)
) ss
CITY OF WASHINGTON)

On this ____ day of _____, 1994 before me personally appeared Richard I. Klein, to me personally known, who being by me duly sworn, says that he is the Treasurer of NATIONAL RAILROAD PASSENGER CORPORATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

My Commission Expires: _____

[SEAL]

STATE OF DELAWARE)
) ss
COUNTY OF NEW CASTLE)

On this ____ day of _____, 1994 before me personally appeared _____, to me personally known, who being by me duly sworn, says that he/she is _____ of Wilmington Trust Company, a Delaware banking corporation, as Owner Trustee under such instrument, that said instrument was signed on behalf of said banking corporation by authority of its Board of Directors, and he/she acknowledges that the execution of the foregoing instrument was the free act and deed of said banking corporation.

By: _____
Notary Public

My Commission Expires: _____

[SEAL]

SCHEDULE 1 TO LEASE
SUPPLEMENT NO. __

DESCRIPTION OF UNITS

EQUIPMENT TYPE	MANUFACTURER'S NUMBERS	AMTRAK EQUIPMENT NUMBERS

ANNEX A

AMTRAK TRUST 94-D

DEFINITIONS

The following terms shall have the following meanings for all purposes of the agreement to which this Annex A is appended:

"*1991 Loan Agreement*" shall mean that certain Loan Agreement dated as of April 19, 1991, between Amtrak and EDC, as amended and supplemented, together with all related agreements or instruments entered into by Amtrak and EDC in connection therewith.

"*1993 Loan Agreement*" shall mean that certain Loan Agreement dated as of December 8, 1993, between Amtrak and EDC, as amended and supplemented, together with all related agreements or instruments entered into by Amtrak and EDC in connection therewith.

"*AAR*" means American Association of Railroads.

"*Act*" means the Interstate Commerce Act (49 U.S.C. §10101 et seq.).

"*Additional Insureds*" means Trust Company, Owner Trustee, Owner Participant, Indenture Trustee, Loan Participant and each holder, from time to time, of the Secured Notes.

"*Affiliate*", with respect to any Person, shall mean any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"*After-Tax Basis*" means

(i) with respect to any payment to be received by a Person, the amount of such payment plus a further payment or payments so that the net amount received by such Person, after deducting from such payments the amount of all Taxes imposed currently on the Person receiving such payment, by any taxing authority with respect to such payments (net of any current credits, deductions or other Tax benefits or the present value of any reasonably ascertainable future credits, deductions, or other Tax benefits or detriments (determined discounting at the Debt Rate) arising from the payment by such Person of any amount, including Taxes, with respect to the payment received) is equal to the original payment required to be received; and

(ii) with respect to any payment to be made by a Person, the amount of such payment plus a further payment or payments so that the sum of such payments, equals the aggregate amount described in clause (i).

"*Aggregate Casualty Payment*" has the meaning specified in Section 7.3 of the Lease.

"*Amendment*" means any amendment, modification, waiver or consent in respect of any provisions of the Lease.

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

"*Applicable Law*" has the meaning specified in Section 9.01 of the Trust Agreement.

"*Appraiser*" means Deloite & Touche Evaluation Group.

"*Assumed Principal Amount*" has the meaning specified in Section 18 of the Participation Agreement.

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

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

"*Base Lease Commencement Date*" for a Unit means six (6) months less one day after the Closing Date for such Unit, as confirmed in the Lease Supplement for such Unit.

"*Base Lease Expiration Date*" with respect to any Unit means the twenty-fifth (25th) anniversary of the Base Lease Commencement Date for such Unit.

"*Base Lease Term*" with respect to any Unit means the period described in the second sentence of Section 3 of the Lease.

"*Base Rent*" with respect to any Unit (i) as of any Rent Payment Date for such Unit during the Base Lease Term means the Equipment Cost of such Unit multiplied by the Rent Factor applicable to such Unit for such Rent Payment Date and (ii) as of any Rent Payment Date for such Unit during a Renewal Term, the applicable Renewal Rent then due.

"*Bill of Sale*" means a warranty bill of sale covering a Unit or any Replacement Unit conveying title to such Unit or Replacement Unit, free and clear of all Liens and warranting to defend such title.

"*Business Day*" means any day other than (i) a Saturday or Sunday and (ii) a day on which state, provincial or national banking institutions are authorized or obligated by law or executive order to remain closed in the States of New York, Utah or Delaware or the District of Columbia or, so long as EDC is holder of a Secured Note, the Province of Ontario, Canada.

"*Car Type*" means each of the sleeper, transition sleeper, diner or lounge passenger car types described on Schedule 1 to the Lease Supplements.

"*Casualty Occurrence*" with respect to any Unit means any of the following events with respect to such Unit: (i) such Unit suffers an actual or constructive total loss or shall be or become in the good faith opinion of Lessee worn out or shall be destroyed or irreparably damaged, or uneconomical to repair, or rendered unfit for commercial use from any cause whatsoever during the Lease Term or until such Unit is returned pursuant to Section 14 or Section 17 of the Lease, (ii) title to such Unit shall be taken by any Governmental Authority by condemnation or otherwise, (iii) use of such Unit shall be taken or requisitioned by any Governmental Authority, for a period which shall exceed twelve (12) months (or beyond the end of the remaining Lease Term, if it first occurs), (iv) such Unit shall be or become lost or stolen for a period in excess of one hundred eighty (180) days (or to the end of the remaining Lease Term, if it first occurs), or (v) as a result of any rule, regulation, order or other action by any Instrumentality, the use of such Unit in a manner consistent with Lessee's actual business activities shall have been prohibited for a period of eighteen (18) consecutive months (or beyond the end of the remaining Lease Term, if it first occurs).

"*Casualty Value*" has the meaning specified in Section 7.5 of the Lease.

"*Casualty Value Determination Date*" means with respect to any Casualty Occurrence the first date listed on Schedule IV to the Participation Agreement that is at least 90 days after such Casualty Occurrence.

"*Casualty Value Factor*" with respect to any Unit as of any Casualty Value Determination Date during the Interim Term or the Base Lease Term means the percentage of Equipment Cost applicable to such Unit set forth opposite such Casualty Value Determination Date on Schedule IV to the Participation Agreement, in each case as such Casualty Value Factors may have been adjusted pursuant to Section 4.3 or 16.4 of the Lease or Section 9 of the Tax Indemnity Agreement.

"*Change in Tax Law*" means with respect to any Unit any change in the Code (or regulations promulgated thereunder) which affects the Net Economic Return.

"*Claims*" has the meaning specified in Section 6.2(i) of the Participation Agreement.

"*Clayton Act*" means the Clayton Act (15 U.S.C. § 12 et seq.).

"*Closing Date*" with respect to any Units means the date on which the Units identified on the Lease Supplements are purchased by Owner Trustee and leased to Amtrak under the Lease.

"*Closing Notice*" has the meaning specified in Section 3.1 of the Participation Agreement.

"*Code*" means the Internal Revenue Code of 1986, amended from time to time.

"*Commitment*" of a Participant means (i) in the case of Owner Participant, the amount to be provided to Owner Trustee pursuant to Section 2.5(i) of the Participation Agreement and (ii) in the case of Loan Participant, the amount of the secured loan to be made by Loan Participant pursuant to Section 2.3(i) of the Participation Agreement.

"*Consent*" means that certain Consent (Amtrak Trust 94-D) of the FRA, dated on or before the First Closing Date.

"*Consent and Agreement*" means the Consent and Agreement (Amtrak Trust 94-D) of Manufacturer dated as of June 15, 1994 whereby Manufacturer consents and agrees to the terms and conditions of the Purchase Agreement Assignment.

"*Debt Rate*" has the meaning set forth in Schedule III to the Participation Agreement.

"*Defaulting Participant*" has the meaning specified in Section 3.2(iii) of the Participation Agreement.

"*Delayed Closing Date*" has the meaning specified in Section 3.4 of the Participation Agreement.

"*Delivery Date*" means the Closing Date.

"*Discount Rate*" means with respect to the prepayment of any Secured Note the rate equal to the then existing interpolated yield on-the-run liquid benchmark U.S. Treasury Notes (as indicated on page 5, or such other pages as may be substituted by Telerate, of Telerate Screen at noon, New York City time, on the relevant date) with a maturity closest to the remaining Weighted Average Life to Maturity of the then outstanding principal of the Secured Notes, plus 0.70% for any prepayment made up to and excluding the seventeenth anniversary of the Closing Date for such Secured Note and thereafter plus 1.20%.

"*EDC*" shall mean Export Development Corporation, a corporation established by an Act of the Parliament of Canada.

"*Equipment*" means the Bombardier Superliner II sleeper, transition sleeper, diner and lounge passenger cars to the extent and for so long as they are accepted under and subject to the Lease, together with related appliances, parts, accessories, appurtenances, additions, improvements and other equipment or components of any nature installed thereon, as specified in

the Lease Supplement (but subject to Section 3.5 of the Participation Agreement) and replacements thereof and substitutions therefor, including any Replacement Units substituted for Units in accordance with Section 7.2 of the Lease (individually, a "*Unit*" and, collectively, the "*Equipment*" or the "*Units*").

"*Equipment Cost*" for any Unit has the meaning set forth in Schedule III to the Participation Agreement. Any Replacement Unit shall be deemed to have the Equipment Cost of the Unit for which it was substituted in accordance with Section 7.2 of the Lease.

"*ERISA*" means the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 331 et seq.), as amended from time to time, or any successor law.

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

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

"*Excess Amount*" has the meaning specified in Section 12 of the Participation Agreement.

"*Exchange Act*" means the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.).

"*Expenses*" has the meaning specified in Section 8.01 of the Trust Agreement.

"*Fair Market Renewal Term*" has the meaning specified in Section 16.4 of the Lease.

"*Fair Market Rental*" for a Unit means the semi-annual rent which would be obtained in an arm's-length transaction between an informed and willing lessee and an informed and willing lessor, neither being under any compulsion to lease. In determining Fair Market Rental for a Unit, it shall be assumed that Lessee has complied with all of the terms, provisions and conditions of the Lease and that such Unit is in the condition and configuration required upon its return to Lessor as provided therein and the value of, and any enhancement of value attributable to, any severable improvements shall be disregarded.

"*Fair Market Value*" for a Unit means the cash price which would be obtained in an arm's-length transaction between an informed and willing buyer under no compulsion to buy, and an informed and willing seller under no compulsion to sell. In determining Fair Market Value for a Unit, it shall be assumed that Lessee has complied with all of the terms, provisions and conditions of the Lease and that such Unit is in the condition and configuration required upon its return to Lessor as provided therein. In determining the fair market value of any Unit the value of, and any enhancement of value attributable to, any severable improvements shall be disregarded.

"*First Closing Date*" means the date occurring on or before June 30, 1994 on which the Units identified on Lease Supplement No. 1 are purchased by Owner Trustee and leased to Amtrak under the Lease.

"*Fixed Rate Renewal Rent*" with respect to any Unit means, fifty percent (50%) of the average annual Base Rent payments for such Unit during the Base Lease Term.

"*Fixed Rate Renewal Term*" has the meaning specified in Section 16.4 of the Lease.

"*FRA*" means the Federal Railroad Administrator of the Department of Transportation.

"*Governmental Authority*" means any federal, state or local government or other governmental authority in the United States or any foreign government or any political subdivision or governmental authority thereof or any territory or possession of the United States or any international authority.

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

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

"*Indemnified Parties*" means for purposes of Section 6.1 and Section 6.2 of the Participation Agreement, Owner Participant, Owner Trustee, Trust Company, Indenture Trustee, Loan Participant, each other holder from time to time of any Secured Note or a note issued pursuant to Section 2.03 of the Indenture and their respective successors and assigns and the Affiliates, agents, officers, directors, servants and employees of any thereof. "*Indemnified Party*" means any such Person individually.

"*Indenture*" means that certain Trust Indenture and Security Agreement (Amtrak Trust 94-D) dated as of June 15, 1994 between Owner Trustee and Indenture Trustee. Unless the context otherwise requires, "Indenture" shall include each Indenture Supplement.

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

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

"*Indenture Supplement*" means any amendment or supplement to the Indenture adopted in accordance with Article XIII of the Indenture, including an Indenture Supplement substantially in the form of Appendix C to the Indenture.

"*Indenture Trustee*" means First Security Bank of Utah, National Association, a national banking association.

"*Installment Payment Date*" with respect to any Secured Note means the date which is six months less one day after the date of such Secured Note and each six month and annual anniversary thereafter to and including the maturity date thereof for such Secured Note.

"*Institutional Investor*" means a "qualified institutional buyer" as that term is defined in Rule 144A of the Securities Exchange Act of 1934, as amended.

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

"*Interchange Rules*" means the current interchange rules or supplements thereto of the Mechanical Division of the Association of American Railroads as the same may be in effect from time to time.

"*Interim Amount*" has the meaning specified in Section 9.6 of the Participation Agreement.

"*Interim Term*" for each Unit means the period prescribed therefor in Section 3 of the Lease.

"*Investment*" means the funds required to be delivered by Owner Participant to Owner Trustee on the Closing Date pursuant to Section 3 of the Participation Agreement to finance Owner Participant's Commitment.

"*Lease*" means that certain Lease of Railroad Equipment (Amtrak Trust 94-D) dated as of June 15, 1994 between Owner Trustee, as lessor, and Amtrak, as lessee. Unless the context otherwise requires, "Lease" shall include each Lease Supplement.

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

"*Lease Event of Default*" has the meaning specified in Section 13.1 of the Lease.

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

"*Lease Supplement*" means a supplement to the Lease in substantially the form of Exhibit A to the Lease, entered into between Lessor and Lessee (collectively, the "*Lease Supplements*").

"*Lease Term*" with respect to any Unit means the period commencing on the Closing Date therefor and continuing to and including the last day of the Base Lease Expiration Date for such Unit, or if Lessee exercises any renewal options contained in Section 16.4 of the Lease with respect to such Unit, the last day of the last Renewal Term for such Unit, in each case unless earlier terminated pursuant to the terms of the Lease.

"*Lease Termination Date*" with respect to any Unit means the Base Lease Expiration Date for such Unit or, if applicable, the expiration date of any Renewal Term.

"*Lessee*" means Amtrak in its capacity as lessee under the Lease.

"*Lessor*" means Owner Trustee in its capacity as lessor under the Lease.

"*Lessor's Liens*" means any Lien affecting or in respect of the Equipment, the Lease or the Trust Estate arising as a result of (i) claims by or against Lessor, in its individual capacity or as trustee, unrelated to the transactions contemplated by the Operative Documents or (ii) any breach of any covenant or agreement of Lessor, in its individual capacity or as trustee, set forth in any of the Operative Documents, or (iii) taxes imposed against Lessor, in its individual capacity or as trustee, or the Trust Estate which are not indemnified against by Lessee pursuant to the Participation Agreement or under the Tax Indemnity Agreement.

"*Liability Insurance*" has the meaning specified in Section 8.1(i)(b) of the Lease.

"*Lien*" means any mortgage, pledge, lien, charge, claim, encumbrance, lease, sublease, sub-sublease or security interest.

"*Loan Participant*" means Export Development Corporation of Canada, a corporation established by Act of the Parliament of Canada.

"*Loan Participant's Commitment*" has the meaning set forth in Schedule I to the Participation Agreement.

"*Loss*" has the meaning set forth in Section 5(a) of the Tax Indemnity Agreement.

"*Majority in Interest of Secured Note Holders*" at any time shall mean more than 50% of interest of the holders of the Secured Notes which are Outstanding at such time.

"*Make-Whole Amount*" means, in connection with any applicable prepayment, the present value of foregone scheduled interest and principal payments for the principal prepaid discounted at the Discount Rate less the principal amount being prepaid.

"*Manufacturer*" means Bombardier Corporation, a Canadian corporation.

"*Net Economic Return*" means Owner Participant's nominal after-tax multiple investment sinking fund yield, total after-tax cash flow and cumulative after-tax cash as of the end of each calendar year, computed on the basis of the assumptions, including the Tax Assumptions and methodology, used by Owner Participant in originally entering into the transactions contemplated by the Lease and the assumptions set forth in Schedule III to the Participation Agreement including any indexing provision.

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

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

"*Obligor*" with respect to a Secured Note, means Owner Trustee.

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

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

"*Operative Documents*" means, collectively, the Participation Agreement, the Trust Agreement, the Indenture, any Indenture Supplement, the Lease, any Lease Supplement, the Tax Indemnity Agreement, the Secured Notes, the Purchase Agreement Assignment and the Consent.

"*Opinion Addressees*" mean Loan Participant, Owner Trustee, Indenture Trustee, Owner Participant and Amtrak.

"*Outstanding*" with respect to Secured Notes, means, as of the date of determination, all Secured Notes theretofore delivered under the Indenture, except:

(i) Secured Notes theretofore canceled by Owner Trustee or delivered to Owner Trustee for cancellation;

(ii) Secured Notes which are deemed to have been paid in full in accordance with the last sentence of Section 7.04 of the Indenture; and

(iii) Secured Notes in exchange or replacement for which other Secured Notes shall have been delivered under the Indenture.

"*Overall Transaction*" means the arrangements and transactions contemplated by and reflected in the Operative Documents.

"*Overdue Rate*" means 11.5 percent per annum.

"*Owner Participant*" means J.P. Morgan Interfunding Corp., a Delaware corporation.

"*Owner Participant's Commitment*" has the meaning set forth in Schedule III to the Participation Agreement.

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

"*Owner Participant's Lien*" means any Lien affecting, on or in respect of the Equipment, the Lease or the Trust Estate arising as a result of (i) claims against or affecting Owner Participant not related to the transactions contemplated by the Lease or the Participation Agreement, or (ii) any breach of any covenant or agreement of Owner Participant set forth in any

of the Operative Documents, or (iii) taxes imposed against Owner Participant or the Trust Estate which are not indemnified against by Lessee pursuant to the Participation Agreement or under the Tax Indemnity Agreement.

"*Owner Trustee*" means Wilmington Trust Company, a Delaware banking corporation, not in its individual capacity but solely as Owner Trustee under the Trust Agreement.

"*Participant*" or "*Participants*" means Loan Participant and Owner Participant.

"*Participation Agreement*" means that certain Participation Agreement (Amtrak Trust 94-D) dated as of June 15, 1994 among Amtrak, Owner Participant, Loan Participant, Indenture Trustee, Owner Trustee and Trust Company.

"*Payment Instructions*" with respect to Loan Participant means the payment instructions set forth in Schedule I to the Participation Agreement.

"*Permitted Investment*" means (i) certificates of deposit and time and other interest bearing deposits in banks which are rated at least "AA" by IBCA Ltd. or A/B by Keefe Bank Watch Service, (ii) short-term debt securities issued by or entitled to the full faith and credit of the United States or Canadian government or (iii) commercial paper which is rated "A-l" or better (or comparable ratings) by Standard & Poor's Corporation or "P-l" or better (or comparable ratings) by Moody's Investors Service, Inc. or the successors to such rating organizations, in each case referred to in the foregoing clauses (i) through (iii) due within two hundred ten (210) days of the date of purchase.

"*Permitted Liens*" means (i) Liens for taxes, assessments or governmental charges or levies in each case not due and delinquent, (ii) inchoate materialmen's, mechanics', workmen's, repairmen's or other like Liens arising in the ordinary course of Amtrak's business and in each case not delinquent, (iii) the Lien of the Indenture, (iv) Lessor's Liens, (v) Owner Participant's Liens, and (vi) subleases or assignments permitted under the Lease.

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

"*Property Insurance*" has the meaning specified in Section 8.1(i)(a) of the Lease.

"*Purchase Agreement*" means that certain Agreement for Purchase and Sale of Superliner Cars dated April 19, 1991 between Manufacturer and Amtrak including all modifications and supplements thereto pertaining to the Units.

"*Purchase Agreement Assignment*" means the Purchase Agreement and Warranty Assignment (Amtrak Trust 94-D) dated as of June 15, 1994 among Amtrak, Manufacturer and Owner Trustee whereby Amtrak assigns the Purchase Agreement to Owner Trustee and Manufacturer consents and agrees to the terms and conditions of such assignment.

"*Purchased Units*" means any Units with respect to which Lessee shall have acquired the Units pursuant to Section 16.1 of the Lease.

"*Rail Passenger Service Act*" means the Rail Passenger Service Act (45 U.S.C. § 501 et seq.).

"*Redelivery Location*" has the meaning specified in Section 17.1 of the Lease.

"*Reference Rate*" means the prime rate, as announced from time to time, of Morgan Guaranty Trust Company of New York.

"*Reimbursement Amount*" has the meaning specified in Section 9.6 of the Participation Agreement.

"*Release*" shall mean the Release of Lien, executed and delivered by Loan Participant on each Closing Date which releases and terminates any security interest or lien in favor of the Loan Participant in the Units purchased and leased on such Closing Date arising under or related to obligations under the 1991 Loan Agreement.

"*Renewal Rent*" means with respect to a Renewal Term either Fixed Rate Renewal Rent or Fair Market Rental, as applicable.

"*Renewal Term*" means a Fixed Rate Renewal Term or a Fair Market Renewal Term.

"*Rent*" means Base Rent, Renewal Rent and Supplemental Rent, collectively.

"*Rent Factor*" for any Rent Payment Date means with respect to any Unit, the percentage of Equipment Cost applicable to such Unit set forth opposite such Rent Payment Date on Schedule III to the Participation Agreement, in each case as such Rent Factors may have been adjusted pursuant to Section 4.3 of the Lease or Section 16 of the Participation Agreement.

"*Rent Payment Date*" for a Unit means each six month and annual anniversary of the Base Lease Commencement Date for such Unit, commencing on the six month anniversary of such Base Lease Commencement Date and ending on the Base Lease Expiration Date for such Unit.

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

"*Replacement Unit*" for a Unit suffering a Casualty Occurrence means a Superliner II passenger car of the same Car Type of any Unit then subject to the Lease having a value, utility and remaining economic useful life at least equal to the Unit being replaced (at the option of Lessor, as determined by an appraiser chosen by it), assuming that the Unit being replaced was of the value, utility and remaining economic useful life as required by the terms of the Lease immediately prior to such Casualty Occurrence.

"*Responsible Officer*" of an entity means any corporate officer or other responsible official of such entity who is designated as the recipient of a notice pursuant to the provisions of any Operative Document or who, in the normal performance of such official's operational responsibilities, would have knowledge of the matter at issue and the relevant provisions of any applicable Operative Document. When used with respect to Owner Trustee, "Responsible Officer" means any officer within the Principal Corporate Trust Office or the Corporate Trust Administration (or any successor group) thereof assigned by Owner Trustee or Indenture Trustee to administer its corporate trust matters.

"*Restricted Security*" means a Secured Note unless and until (i) it has been effectively registered in accordance with a registration statement under the Securities Act covering it or (ii) it has been distributed to the public pursuant to Rule 144 (or any successor rule) under the Securities Act.

"*Second Closing Date*" means the date after June 30, 1994, and on or before September 30, 1994 on which the Units identified on Lease Supplement No. 2 are purchased by Owner Trustee and leased to Amtrak under the Lease.

"*Secretary*" means the Secretary of the Department of Transportation.

"*Section 1168 of the Bankruptcy Code*" means Section 1168 of the Bankruptcy Code or a successor provision intended to afford lessors of rolling stock equipment and accessories used on such equipment benefits comparable to those afforded by said Section 1168 as in effect on the date hereof.

"*Secured Note*" means each of the notes of Owner Trustee, substantially in the form thereof specified in Appendix A to the Indenture, as are issued pursuant to the Indenture and any Replacement Note.

"*Securities Act*" means the Securities Act of 1933 (15 U.S.C. § 77a et seq.).

"*Series*" shall mean the Series A Secured Notes, the Series B Secured Notes or the Series C Notes, as the case may be.

"*Series A Secured Notes*" means the Secured Notes issued under the Indenture in connection with the Units purchased and leased on the First Closing Date.

"*Series B Secured Notes*" means the Secured Notes issued under the Indenture in connection with the Units purchased and leased on the Second Closing Date.

"*Series C Secured Notes*" means the Secured Notes issued under the Indenture in connection with the Units purchased on the Third Closing Date.

"*Special Event*" has the meaning specified in Section 17(c) of the Participation Agreement.

"*Special Purchase Date*" (i) with respect to a purchase of the Units by Amtrak pursuant to Section 6.1(xiv) of the Participation Agreement, means the date of termination specified by Amtrak pursuant to Section 6.1(xiv) of the Participation Agreement; and (ii) and for all other purposes means the date specified in Schedule III to the Participation Agreement.

"*Special Purchase Price*" for any Unit has the meaning specified in Schedule III to the Participation Agreement.

"*Specified Default*" means a Lease Default specified in Sections 13.1(i), (ii), (vi), (vii), (viii), (ix) and (x) of the Lease.

"*Statistical Release*" means the statistical release designated "H.15(519)" or any successor publication which is published weekly by the Federal Reserve System and which establishes yields on actively traded U.S. Government Securities adjusted to constant maturities or, if such statistical release is not published at the time of any determination hereunder, then such other reasonably comparable index which shall be designated by Loan Participant.

"*Substituted Participant*" has the meaning specified in Section 3.2(iii) of the Participation Agreement.

"*Supplemental Rent*" means any and all amounts, liabilities and obligations (other than Base Rent or Renewal Rent) which Lessee assumes or agrees to pay to any Person under the Lease or under the Participation Agreement, including, without limitation, Section 4.2 of the Lease and Sections 6 and 7 of the Participation Agreement, or under any other Operative Document, including, without limitation, payments of Casualty Value and amounts measured by reference thereto, indemnity payments and payments pursuant to the Tax Indemnity Agreement.

"*Tax Assumptions*" has the meaning specified in Section 2 of the Tax Indemnity Agreement.

"*Tax Indemnity Agreement*" means that certain Tax Indemnity Agreement (Amtrak Trust 94-D) dated as of June 15, 1994 between Owner Participant and Amtrak.

"*Taxes*" has the meaning specified in Section 6.1(i) to the Participation Agreement.

"*Termination Date*" has the meaning specified in Section 26.1 of the Lease.

"*Third Closing Date*" means the date after September 30, 1994 and on or before December 30, 1994 on which the Units identified as Lease Supplement No. 3 are purchased by Owner Trustee and leased to Amtrak under the Lease.

"*Transaction Expenses*" has the meaning specified in Section 7.1 of the Participation Agreement.

"*Transferee*" means the Person to whom Owner Participant has transferred its interest in the Trust Estate in accordance with Section 10 of the Participation Agreement.

"*Treasury Rate*" shall mean, as of any date, the weighted average yield to maturity of 30-day United States Treasury Notes as quoted by J.P. Morgan Securities, Inc. (or if such person shall not be quoting such a rate, as quoted by a reputable dealer in United States Treasury Notes mutually acceptable to Owner Participant and Lessor).

"*Trust Agreement*" means that certain Trust Agreement (Amtrak Trust 94-D) dated as of June 15, 1994 between Owner Participant and Wilmington Trust Company, as Owner Trustee and Trust Company.

"*Trust Company*" means Wilmington Trust Company, a Delaware banking corporation in its individual capacity.

"*Trust Estate*" means all estate, right, title and interest of Owner Trustee in and to the Equipment and the Lease and any other property contributed by Owner Participant, including all amounts of Rent, insurance proceeds and requisition, indemnity or other payments of any kind for or with respect to the Equipment. Notwithstanding the foregoing, except for purposes of Section 6.1 of the Participation Agreement, "*Trust Estate*" shall not include any Excepted Rights or Excepted Payments.

"*Trust Indenture Act*" means the Trust Indenture Act of 1939 (15 U.S.C. § 77aaa et seq.).

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

"*Unit*" and "*Units*" have the meanings set forth under "*Equipment*".

"*Voluntary Termination*" with respect to any Unit shall mean a termination of the Lease with respect to such Unit pursuant to Section 26 of the Lease.

"*Warranty Section*" means Section 8 of the Purchase Agreement.

"*Weighted Average Life to Maturity*" means the average obtained by multiplying each of the scheduled principal amounts associated with a prepayment by their respective repayment terms commencing on the date of prepayment and dividing the total of such products by the total prepayment amount.