



19436-A

**ASSIGNMENT OF LEASE**

THIS ASSIGNMENT OF LEASE (this "Agreement") is made as of this 25th day of May, 1995, by INTERAIL, INC., a Kansas corporation (the "Borrower"), in favor of HARRIS BANK WINNETKA N.A., a national banking association (the "Lender"); witnesseth:

**Recitals**

The Borrower has applied to the Lender for a loan in the principal amount of \$980,000 (the "Financial Accommodations"). The Financial Accommodations are to be evidenced by, and repaid with interest in accordance with provisions of, a Promissory Note of even date herewith from the Borrower payable to the Lender in the principal amount of the Financial Accommodations (the "Note"). Repayment of the Note is secured by, *inter alia*, a Security Agreement of even date herewith (the "Security Agreement") from the Borrower to the Lender. The Borrower is the lessor under the lease which is described on Schedule 1 attached hereto and made a part hereof (the "Lease"). The Lender has required, as a condition to the making of the Financial Accommodations, the execution of this Agreement by the Borrower.

NOW, THEREFORE, in order to secure (a) the prompt payment of all past, present, and future indebtedness, liabilities, and obligations of the Borrower to the Lender of any nature whatsoever in connection with the Financial Accommodations (collectively, the "Borrower's Liabilities"), and (b) the performance by the Borrower of all of the terms, conditions, and provisions of this Agreement, the Note, the Security Agreement, and of any other note, security agreement, pledge agreement, guaranty agreement, mortgage, deed of trust, loan agreement, hypothecation agreement, subordination agreement, indemnity agreement, letter of credit application, assignment, or any other document previously, simultaneously, or hereafter executed and delivered by the Borrower and/or any other person, singly or jointly with another person or persons, evidencing, securing, guarantying, or in connection with any of the Borrower's Liabilities (collectively, the "Loan Documents"), the Borrower hereby pledges, assigns, and grants to the Lender a security interest in and assigns to the Lender all its right, title and interest to the Lease, including all extensions of the term of the Lease, together with all rights, powers, privileges, options and other benefits of the Borrower, as lessor under the Lease, including, without limitation:

- (a) the immediate and continuing right to receive and collect all rent, casualty value payments, insurance proceeds, condemnation awards, and other payments, tenders and security now or hereafter payable to or receivable by the Borrower, as lessor under the Lease;
- (b) the right to make all waivers and consents and to enter into any modifications or amendments relating to the Lease and to give and receive duplicate copies of all notices and other instruments and communications; and

(c) the right to take such action upon occurrence of an Event of Default under the Lease, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Lease or by law, to give all notices of default under the Lease, and to do all other things whatsoever which the Borrower is or may be entitled to do as lessor under the Lease;

it being the intent and purpose hereof that, the assignment and transfer to Lender of said rights, powers, privileges, options and other benefits shall be effective and operative immediately and shall continue in full force and effect, and the Lender shall have the right to collect and receive all rent, casualty value payments, insurance proceeds and condemnation awards, if any, and other sums for application in accordance with the Note at all times during the period from and after the date of the Loan Agreement until the indebtedness secured hereby and by the Security Agreement has been fully paid and discharged; provided, however that so long as no Event of Default under the Loan Agreement shall have occurred and be continuing, the Lender hereby appoints the Borrower as its agent for collections of all such amounts set forth in paragraph (a) hereof and so long as no Event of Default under the Loan Agreement shall have occurred and be continuing, Lender shall refrain from exercising its rights under paragraphs (b) and (c) hereof without first obtaining the consent of Borrower.

**A. TO PROTECT THE SECURITY OF THIS AGREEMENT, BORROWER COVENANTS:**

1. To observe and perform all of the obligations imposed upon the Borrower in the Lease and not to do or permit to be done anything to impair the security thereof; that the Lease are valid and enforceable and that there are no known defaults under any of the terms thereof; not to execute any other assignment of the Lease; and not to alter, modify, or change the terms of the Lease or surrender, cancel, or terminate the same.

2. To execute and deliver, at the request of the Lender, all such further assurances and assignments as the Lender shall from time to time require.

**B. IT IS MUTUALLY AGREED THAT:**

1. The Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty, or liability under the Lease, or under or by reason of this Agreement.

2. Upon the payment in full of all indebtedness secured hereby, this Agreement shall become and be void and of no effect.

3. The Lender may take or release other security; may release any party primarily or secondarily liable for any indebtedness secured hereby; may grant extensions, renewals, or

indulgences with respect to such indebtedness; and may apply any other security therefor held by it to the satisfaction of such indebtedness without prejudice to any of its rights hereunder.

4. Nothing herein contained and no act done or omitted by the Lender pursuant to the powers and rights granted to the Lender herein shall be deemed to be a waiver by the Lender of its rights and remedies under the Loan Documents, but this Agreement is made and accepted without prejudice to any of the rights and remedies possessed by the Lender under the terms thereof. The right of the Lender to collect the indebtedness and to enforce any other security therefor owned by it may be exercised by the Lender either simultaneously with, or subsequent to any action taken by hereunder.

5. In the event the Note is transferred by the Lender to any other person or entity, the Borrower covenants and agrees that all the provisions herein contained shall be applied to and inure to the benefit of the holder of the Note in the same manner and to the same extent as if it was the original assignee of the Lease.

WITNESS the signature and seal of the Borrower as of the day and year first above written.

ATTEST:

INTERAIL, INC.

Lita K. Jones  
Secretary

By: Richard F. Seymour (SEAL)  
Name: RICHARD F. SEYMOUR  
Title: PRESIDENT

ACCEPTANCE:

HARRIS BANK WINNETKA N.A.

By: \_\_\_\_\_ (SEAL)  
Name:  
Title:

ACKNOWLEDGEMENT

STATE OF ILLINOIS        )  
                                  ) SS  
COUNTY OF Kane        )

The forgoing instrument was acknowledged before me this May 11, 1996 by  
Richard F. Seymour, the President of  
INTERAIL, INC., a Kansas corporation, on behalf of the corporation.

Kathleen Kregul  
Notary Public

(SEAL)

104551.3



SCHEDULE 1

DESCRIPTION OF LEASE

Lease Agreement dated as of May 1, 1995 between Interail, Inc. and Canadian National Railway Company, and Rider 3 thereto, but only to the extent that such Lease Agreement relates to the boxcars currently or formerly bearing the reporting marks SSAM and GBW and numbers in series 16100 through 16149 and remarked or to be remarked NOKL